

Emergency Planning and Community-Right-to Know Act (EPCRA)

Trade Secrecy Claims

**Regulatory Overview and
Instructions for the Substantiation to Accompany
Claims of Trade Secrecy**
(Instructions for the EPCRA Trade Secret Form)

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Regulatory Overview of the EPCRA Trade Secrecy Provisions

Background

Section 322 of the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act (SARA Title III) [[42 USC 11042](#)], allows facilities to make claims of trade secrecy for the specific chemical identities of substances which are required to be reported under EPCRA sections 303 (Emergency Planning Notification), 311 and 312 (Hazardous Chemical Inventory Reporting), and 313 (Toxics Release Inventory Reporting).

These trade secrecy provisions require that you answer the questions on the form titled *Substantiation to Accompany Claims of Trade Secrecy* (i.e., the EPCRA Trade Secret Form), and require that you submit (1) Part 1: Sanitized Claim Information (Not Confidential) with the notification or report to the implementing agencies for the EPCRA section you are submitting for, and (2) a Trade Secret Substantiation Package to the U.S. EPA. These submissions are required for each notice and annual report for which you wish to claim trade secrecy. Separate forms are required for each chemical and each EPCRA section for which you are claiming trade secrecy. For annual reports, submissions are required annually.

Note that under EPCRA, the term “state” includes the 50 States of the United States, the District of Columbia, the five inhabited territories of the United States, and any other territory or possession over which the United States has jurisdiction. Federally recognized Tribes are the implementing authority for EPCRA on all Indian lands. Tribal Emergency Response Commissions (TERCs) are a form of State Emergency Response Commission (SERC) and any Tribal Emergency Planning Committees (TEPCs) are a form of Local Emergency Planning Committee (LEPC).

This document provides instructions for submitting a trade secret substantiation package and is in accordance with the regulations which are at 40 CFR parts 350, [Subpart A: Trade Secrecy Claims for EPCRA](#).

Who May Withhold Trade Secret Information

Under specific circumstances, any person who is required to report EPCRA Extremely Hazardous Substances (EHSs), hazardous chemicals, or toxic chemicals under the EPCRA Sections 303, 311, 312, and 313 are allowed to withhold from their submittals the specific chemical identity, to include the chemical name and other specific identification [[42 USC 11042\(a\)\(1\)](#)].

Under EPCRA, the term “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or interstate body [[42 USC 11049\(7\)](#)].

Confidential Location Information

This document does not cover the confidential location information provisions of EPCRA section 312 Hazardous Chemical Inventory Reporting at 40 CFR part 370.

To learn more about the confidential location provisions see:

- <https://www.epa.gov/epcra/hazardous-chemical-inventory-reporting>
- <https://www.epa.gov/epcra/tier-ii-forms-and-instructions>

What May Be Withheld

A claim of trade secrecy may be made only for the specific chemical identity of a substance submitted under certain provisions. You may withhold the specific chemical identity of an:

- EPCRA Extremely Hazardous Substance (EHS) for the Emergency Planning Notifications,
- Hazardous chemical for the Hazardous Chemical Inventory Reports, and
- Toxic chemical for the Toxics Release Inventory (TRI) Reports.

Table 1 provides the EPCRA public law section number, the name of the requirement, the regulation citation, and the statute citation of the provisions for which you may claim trade secrecy.

Table 1. EPCRA Sections Eligible for Claims of Trade Secrecy

EPCRA public law section	Name of requirement	Code of Federal Regulations citation	Statute citation
Section 303	Emergency Planning Notifications	40 CFR 355.20(a)&(c)	42 USC 1033(d)(2)&(3)
Section 311	Safety Data Sheets or the List of Hazardous Chemicals	40 CFR 370.30 - .33	42 USC 11021
Section 312	Emergency and Hazardous Chemical Inventory Form	40 CFR 370.40 - .45	42 USC 11022
Section 313	Toxics Release Inventory (TRI) Form	40 CFR 372	42 USC 11023

You may also claim as confidential any trade secret or confidential business information which you include in the Trade Secret Substantiation Package. Such confidentiality claims for material in the substantiation package are not limited to claims of trade secrecy for specific chemical identity and may also include claims of confidentiality for any confidential business information. To claim this material as confidential, you must designate those portions of the substantiation to be claimed as confidential by clearly marking those portions as *Confidential* or *Trade Secret*. Information not so marked will be treated as public and may be disclosed without notice to the submitter.

You should only include confidential information in the Unsanitized (Confidential) submission to the U.S. EPA. If the specific chemical identity is submitted (without asserting a trade secrecy claim) under any EPCRA provision or to a SERC, designated state agency, LEPC, or local fire department then the chemical identity shall be considered to have been voluntarily disclosed and not a trade secret.

What Must be Submitted to the State and Local Implementing Agencies

You must submit *Part 1: Sanitized Claim Information (Not Confidential)* with the sanitized version of your notification or report to the implementing agency for the EPCRA section for which you are making a trade secrecy claim. Ensure that you do not include any trade secret or confidential business information in your submissions to the implementing agencies.

To learn more about the compliance submission requirements visit: www.epa.gov/epcra.

What Must Be Included in the Trade Secret Substantiation Package

The Trade Secret Substantiation Package is the set of documents you will submit to the U.S. EPA. Ensure that your packages are complete and fully substantiate your claim, because EPA cannot process incomplete packages.

The below instructions for the contents of your substantiation package align with the federal regulations at 40 CFR part 350.5 and are listed by statute section.

- **Section 303 Emergency Planning Notifications:** You may claim as a trade secret the specific chemical identity of any chemical subject to reporting under section 303. To make a claim, mail the following to the EPA for each chemical/claim:
 - (1) The completed and certified *Part 1: Sanitized Claim Information (Not Confidential)* with a copy of the notification information which is being submitted per 40 CFR 355.20(a)&(c) to the SERC and/or LEPC.

The chemical identity claimed as a trade secret must be deleted or otherwise excluded from this document. The generic class or category of the chemical identity should be inserted in its place. The generic class or category should be structurally descriptive of the chemical.
 - (2) The completed and certified *Part 2: Unsanitized Claim Information (Confidential)* with any additional attachments as may be needed to fully substantiate your claim.

To claim any additional attachments as confidential, clearly designate those portions of the substantiation to be claimed as confidential by clearly marking those portions as *Confidential* or *Trade Secret*. Information not so marked will be treated as public and may be disclosed without notice to the submitter.
- **Section 311 SDS or List of Hazardous Chemicals:** You may claim as trade secret the specific chemical identity of any chemical subject to reporting on the SDS or chemical list under section 311.

To make a claim for a chemical identity on an SDS submitted under section 311, mail the following to the EPA for each chemical/claim:

- (1) The completed and certified *Part 1: Sanitized Claim Information (Not Confidential)* with a sanitized copy of the SDS which is being submitted per 40 CFR 370.30 to .33 to the SERC, LEPC, and local fire department, which shall make it available to the public.

To sanitize the SDS, replace the specific chemical identity that you are claiming as trade secret with the generic class or category of the chemical. The generic class or category should be structurally descriptive of the chemical.
- (2) The completed and certified *Part 2: Unsanitized Claim Information (Confidential)*. You may but are not required to submit an unsanitized SDS with Part 2 of the form for section 311.

To claim any additional attachments as confidential, you need to clearly designate those portions of the substantiation to be claimed as confidential by clearly marking those portions as *Confidential* or *Trade Secret*. Information not so marked will be treated as public and may be disclosed without notice to the submitter.

To make a claim for the chemical identity on a list submitted under section 311, mail the following to the EPA for each chemical/claim:

- (1) The completed and certified *Part 1: Sanitized Claim Information (Not Confidential)* with a sanitized copy of the chemical list which is being submitted per 40 CFR 370.30 to .33 to the SERC, LEPC, and local fire department, which shall make it available to the public.

To sanitize this list, replace the specific chemical identity which you are claiming as a trade secret with the generic class or category of the chemical claimed as trade secret. The generic class or category should be structurally descriptive of the chemical.

- (2) The completed and certified *Part 2: Unsanitized Claim Information (Confidential)* with an unsanitized copy of the chemical list. The unsanitized copy of the chemical list must be identical to the sanitized copy discussed in the previous bullet, except that it must include the chemical identity being claimed as a trade secret.

To claim any additional attachments as confidential, clearly designate those portions of the substantiation to be claimed as confidential by clearly marking those portions as Confidential or Trade Secret. Information not so marked will be treated as public and may be disclosed without notice to the submitter.

- **Section 312 Hazardous Chemical Inventory Form:** You may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 312. To make a claim, mail the following to the EPA for each chemical/claim:

- (1) The completed and certified *Part 1: Sanitized Claim Information (Not Confidential)* with a copy of the sanitized Tier II Emergency and Hazardous Inventory Form which is being submitted per 40 CFR 370 to the SERC, LEPC, and fire department with jurisdiction over your facility.

The sanitized copy of the Tier II Form shall be identical to the unsanitized copy discussed in the next bullet, except that it must not include the chemical identity or identities claimed as trade secret and instead it shall include the generic class or category of the chemical claimed as trade secret. The generic class or category should be structurally descriptive of the chemical.

- (2) The completed and certified *Part 2: Unsanitized Claim Information (Confidential)* with a copy of the unsanitized Tier II Emergency and Hazardous Chemical Inventory Form and any additional attachments which may be needed to fully substantiate your claim.

The unsanitized copy of the Tier II Form shall be identical to the sanitized copy discussed in the previous bullet, except that it must include the chemical identity being claimed as trade secret. Within the Tier II Form for your chemical, clearly indicate the specific chemical identity claimed as trade secret by checking the box marked “trade secret” next to the claimed chemical identity.

To claim any additional attachments as confidential, clearly designate those portions of the substantiation to be claimed as confidential by clearly marking those portions as Confidential or Trade Secret. Information not so marked will be treated as public and may be disclosed without notice to the submitter.

This document does not include instructions for substantiation claims for the Tier I Form because no states accept this form. If your state determines that you may submit a Tier I Form for compliance with EPCRA section 312, refer directly to 40 CFR 350.5 for instructions on how to substantiate your trade secret claim.

- **Section 313 Toxics Release Inventory Reporting:** You may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 313. To make a claim mail the following to the EPA for each chemical/claim:

- (1) The completed and certified *Part 1: Sanitized Claim Information (Not Confidential)* with a sanitized copy of the Toxics Release Inventory Form.

The sanitized TRI Form shall be identical to the Unsanitized copy discussed in the next bullet, except that it must not include the chemical identity claimed as trade secret and instead it shall include instead the generic class or category of the chemical claimed as

trade secret. The generic class or category should be structurally descriptive of the chemical.

- (2) The completed and certified *Part 2: Unsanitized Claim Information (Confidential)* with an unsanitized copy of the TRI Form and any additional attachments which may be needed to fully substantiate your claim.

The unsanitized version of the TRI Form shall be identical to the sanitized copy discussed in the previous bullet, except that it must include the specific chemical identity being claimed as a trade secret. Within the TRI Form, clearly indicate the specific chemical identity claimed as a trade secret by checking the box marked *trade secret* next to the claimed chemical identity.

To claim any additional attachments as confidential, designate those portions of the substantiation to be claimed as confidential by clearly marking those portions as Confidential or Trade Secret. Information not so marked will be treated as public and may be disclosed without notice to the submitter.

Where to Send the Trade Secret Substantiation Package

Trade Secret Substantiation Packages must be mailed to the U.S. EPA at the following address:

EPCRA Trade Secrets
c/o CGI Federal, Inc.
12601 Fair Lakes Circle
Fairfax, VA 22033

When to Submit the Trade Secret Claim Package

The trade secret claim package must be submitted to the U.S. EPA at the same time that the applicable EPCRA report is submitted.

- Section 303 Emergency Planning Notifications: These notifications are required to be submitted within 60 days of a facility having an EPCRA EHS or having been designated by their SERC, Governor, or Chief Executive Officer of the Tribe. Change notifications are required to be submitted within 30 days of any changes at the facility that may be relevant to emergency planning. To learn more, see: <https://www.epa.gov/epcra/emergency-planning>.

You must submit your Trade Secret Substantiation Package to the EPA at the same time that you provide these notifications to your state emergency response commission and/or local emergency planning committee.

- Section 311 SDS or the List of Hazardous Chemicals: These reports are required to be submitted within three months of a regulated hazardous chemical being present at your facility at or above the reporting thresholds and/or after discovery of significant new information for any of your previously reported hazardous chemicals. Submission is also required within 30 days of a request from your local emergency planning committee. To learn more, see: <https://www.epa.gov/epcra/hazardous-chemical-inventory-reporting>.

You must submit your Trade Secret Substantiation Package to the EPA at the same time that you provide these reports to your state emergency response commission and/or local emergency planning committee.

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- Section 312 Hazardous Chemical Inventory Form: These reports are required to be submitted annually by calendar year, with reporting for the previous year due on or before March 1st each year. To learn more, see: <https://www.epa.gov/epcra/hazardous-chemical-inventory-reporting>.

You must submit your Trade Secret Substantiation Package to the EPA at the same time that you provide these reports to your SERC, LEPC, and fire department with jurisdiction over your facility.

- Section 313 Toxics Release Inventory Reporting: These reports are required to be submitted annually by calendar year, with reporting for the previous year due on or before July 1st of each year. To learn more, see: <https://www.epa.gov/tri>.

You must submit your Trade Secret Substantiation Package to the EPA at the address listed in the previous section at the same time that you submit these reports to the EPA Toxics Release Inventory Program and the state agencies.

What Trade Secrecy and Confidential Information May Be Released

Regarding the release of the information submitted to the U.S. EPA under the Trade Secrecy provisions, the EPA is required to act in accordance with the EPCRA statute and the Freedom of Information Act.

Regarding the Freedom of Information Act Regulations at [40 CFR part 2](#):

- No trade secrecy or business confidentiality claims other than those allowed in 40 CFR part 350, Subpart A Trade Secrecy Claims are permitted for information collected under EPCRA sections 303(d)(2) and (d)(3), 311, 312, and 313.
- Except as provided at 40 CFR 2.209 *Confidentiality of Business Information - Disclosure in specific circumstances* [[40 CFR 350.25](#)], request for access to chemical identities withheld under the EPCRA trade secrecy regulations is solely through this regulation and procedures hereunder, not through EPA's Freedom of Information Act procedures set forth at 40 CFR part 2.
- Request for access to information other than chemical identity submitted to EPA under this regulation is through EPA's Freedom of Information Act regulations.

Regarding the EPCRA Regulations at 40 CFR part 350:

- EPA shall release trade secrecy claims, substantiations, supplemental substantiations, and additional information to any state requesting access, if the request is made in writing by the governor or tribal chief executive officer and the state agrees to safeguard the information with procedures equivalent to those which EPA uses to safeguard the information. The governor or chief may then only disclose such information to that state's employees [[40 CFR 350.19](#)].
- EPA may disclose trade secret and confidential business information to other officers, employees, or authorized representatives of the United States concerned with carrying out the EPCRA provisions, notwithstanding the fact that the information might otherwise be entitled to trade secret or confidential treatment under this part. Such authority may only be authorized in accordance with [40 CFR 350.23\(b\)](#).
- The process for how EPA may release a chemical identity determined to be non-trade secret is codified at [40 CFR 350.18](#).

Instructions for Completing the EPCRA Trade Secret Form

The *Substantiation to Accompany Claims of Trade Secrecy Under the Emergency Planning and Community Right-to-Know Act (EPCRA)* (i.e., the Trade Secret Form) has two Parts. You are required to complete both parts.

- *Part 1: Sanitized Claim Information (Not Confidential)* which is submitted to your state and local agencies with the notification or report which you are claiming trade secrecy for and to the U.S. EPA within your Trade Secret Substantiation Package. **Do not include any trade secret or confidential business information in this unrestricted form or its attachments.**
- *Part 2: Unsanitized Claim Information (Confidential)* which is only submitted to the U.S. EPA within your Trade Secret Substantiation Package. **This confidential form should include the trade secret and any confidential business information for your substantiation claim. Ensure to add confidentiality markings on any attachments with confidential information.**

You are required to answer the questions in Sections 1, 2, 3, and 4 of both *Part 1: Sanitized Claim Information (Not Confidential)* and *Part 2: Unsanitized Claim Information (Confidential)*. Sections 4 of both the Sanitized and Unsanitized form parts are completed after printing, because these form parts require an original wet ink signature. The questions on both parts of the forms are the same, except that question 1.3 is unique to each form part to ensure that Part 1 remains sanitized and Part 2 contains the specific chemical identity. If you need additional space for your answer, you may use an attachment.

The below instructions align with the federal regulations at 40 CFR part 350.

Section 1. Substantiation Category

The information in this section identifies the substantiation category of your claim.

- 1.1 EPCRA (i.e., SARA Title III) Reporting Section:** Check the box corresponding to the section for which this particular claim of trade secrecy is being made.

You may only select one per form. You are required to complete a separate form for each notification or report for which you are claiming trade secrecy.

- 1.2 Reporting Year:** Enter the year to which the reported information applies, not the year in which you are submitting the notification or report.

- 1.3** For Part 1: answer *question 1.3.a. Generic Class or Category*.

For Part 2: answer *questions 1.3.b.i. CAS Registry Number* and *1.3.b.ii. Specific Chemical Identity*.

- 1.3.a. Generic Class or Category:** Enter the generic class or category for the chemical identity that you are claiming as trade secret.

You should choose a generic class or category for the chemical that is structurally descriptive of the chemical; this description must be unique from every other chemical that is being submitted. If you are claiming multiple chemicals from the same class or category, you must add additional labelling to make them unique. (e.g., Amine 1, Amine 2, Amine 3, etc.)

The entry to this field must match the chemical name used in the notifications and reports for which you are claiming trade secrecy.

1.3.b.i. CAS Registry Number: Enter the CAS Registry Number as is appropriate for the EPCRA section for which you are making a substantiation claim.

- Section 303 Emergency Planning Notifications: Enter the CAS Registry Number for the EPCRA EHS as codified in [Appendix A to part 355](#) and [Appendix B to part 355](#).
- Sections 311 and 312 Hazardous Chemical Inventory Reporting: Enter the CAS Registry Number as provided on the SDS. For mixtures and products, if there is no CAS Registry Number then enter: Not Available. If you are reporting on a chemical category (e.g., copper compounds), then enter: Not Available.
- Section 313 Toxics Release Inventory Reporting: Enter the CAS Registry Number or TRI chemical category code as codified in [40 CFR subpart D](#).

1.3.b.ii. Specific Chemical Identity: A claim of trade secrecy may be made only for the specific chemical identity of an EPCRA EHS under section 303(d)(2) and (3), a hazardous chemical under sections 311 and 312, and a toxic chemical under section 313.

If the specific chemical identity is submitted under any EPCRA provision or to a SERC, designated state agency, LEPC, or local fire department, then the chemical identity shall be considered to have been voluntarily disclosed and not a trade secret.

Enter the name of the chemical as is appropriate for the EPCRA section you are seeking trade secrecy under:

Section 303 Emergency Planning Notifications: Enter the chemical name for the EPCRA EHS as codified in [Appendix A to part 355](#) and [Appendix B to part 355](#).

Sections 311 and 312 Hazardous Chemical Inventory Reporting: Enter the chemical name or any other information that reveals the precise chemical designation of the substance.

Section 313 Toxics Release Inventory Reporting: Enter the chemical name as codified in [40 CFR subpart D](#).

Section 2. Facility Identification Information

The information in this section should be completed for the physical location of the facility for which you are claiming trade secrecy of a chemical at.

- 2.1 Name:** Enter the name of your facility. This should match the facility name you use on the notification or report for which you are making a trade secrecy claim.
- 2.2 Street Address:** Enter the physical address of your facility, include the building number and street name where your facility is located. Off-site mailing addresses are not acceptable.
- 2.3 City, State, and Zip Code:** Enter the city, state, and ZIP code of your facility.
- 2.4 Dun and Bradstreet Number:** Enter the Dun & Bradstreet number(s) of your facility. You can obtain this from your financial officer or at <https://www.dnb.com>. You may enter N/A if your facility does not have this identifier.

Section 3. Substantiation Questions

The questions in this section are based on the statutory criteria in Section 322(b) of ECPRA [[42 USC 11042\(b\)](#)] and is in accordance with the regulation codified at 40 CFR 350.13.

The substantiation which you are preparing to submit will be determined to be insufficient to support a claim of trade secrecy unless the answers to the questions in this section support all of the conclusions listed in 40 CFR 350.13 and summarized below in this section.

The substantiation must include specific facts, as applicable. The sufficiency of your trade secret claim shall be decided entirely upon the information submitted under [§ 350.7 Substantiating claims of trade secrecy](#) and [§ 350.11\(a\)\(2\)\(ii\) Good Cause](#).

To substantiate your claim, you must demonstrate that (1) you have not disclosed the information in questions 3.1, 3.2, 3.3, and 3.4, (2) the disclosure of information is likely to cause substantial harm to your competitive position in question 3.5 and 3.6, and (3) the chemical identity is not readily discoverable through reverse engineering in question 3.7.

(1) You have not disclosed the information:

For your claim to be determined sufficient, the submitter must not have disclosed the information to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a state or local government, an employee of such person, or a person who is bound by a confidentiality agreement and such person has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures. To support this conclusion, the facts asserted must show all of the following:

- You have taken reasonable measures to prevent unauthorized disclosure of the specific chemical identity and will continue to take such measures.
- You have not disclosed the specific chemical identity to any person who is not bound by an agreement to refrain from disclosing the information.
- You have not previously disclosed the specific chemical identity to a local, state, or Federal government entity without asserting a confidentiality claim.
- The chemical identity must not be required to be disclosed or otherwise made available to the public under any other Federal or State law.

To demonstrate that you have not disclosed the information and that it is not required to be disclosed, answer questions 3.1, 3.2, 3.3, and 3.4. You may attach supporting information to the form.

For Part 1 (Sanitized) ensure that you **do not include any trade secret or confidential business information in this unrestricted form or its attachments**.

For Part 2 (Unsanitized) ensure that you **fully substantiate your claim** and that any attachments have the appropriate confidentiality marks.

Note: The 2026 form rennumbers the former question 3.6 to be question 3.4.

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.

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you may use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

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?

Review the requirements explained above and codified in § 350.13.

Check “yes” if you have disclosed the information claimed as trade secret to any other person (other than a member of a LEPC, 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.

Check “no” if you have not.

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.

Review the requirements explained above and codified in § 350.13.

Enter the name of the government entity which the specific chemical identity was disclosed to. For each entry, check the box next to “Asserted” or “Not Asserted” to indicate whether you asserted a confidentiality claim for this specific chemical identity.

If you select “Asserted”, then check the box next to “Yes – Denied” or “No – Accepted” to indicate whether that government entity denied or accepted the confidentiality claim for this specific chemical identity.

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

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you may use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

(2) Disclosure of information is likely to cause substantial harm to your competitive position

Disclosure of the information is likely to cause substantial harm to your competitive position. To support this conclusion, the facts asserted must show all of the following:

- Either your competitors do not know, or you are not aware that competitors know, that the chemical whose identity you are claiming as trade secret can be used in the fashion that your facility uses it, competitors cannot easily duplicate the specific use of this chemical through their own research and development activities, and this information is of value to competitors.

Or

Your competitors are not aware, or you do not know whether competitors are aware, that your facility is using this chemical in this fashion.

- The fact that your facility manufactures, imports, or otherwise uses this chemical in a particular fashion is not contained in any publication (or other information source of which you are aware) that is available to competitors or the public.
- The Sanitized Trade Secret Form (not confidential version) of the submission does not contain sufficient information to enable competitors to determine the specific chemical identity withheld therefrom.
- Your competitors are likely to use this information to your economic detriment and they are not precluded from doing so by a United States patent.
- The resulting harm to your competitive position would be substantial.

To demonstrate that disclosure of information is likely to cause substantial harm to your competitive position, answer questions 3.5 and 3.6.

Note: The 2026 form rennumbers the former question 3.4 to be question 3.5, and the former question 3.5 to be question 3.6.

3.5 In order to show the validity of a trade secrecy claim, you must identify your specific use of the chemical claimed as 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.)**

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you may use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

- (ii) Indicate if your company or facility identity has 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).**

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you may use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

- (iii) If the 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.**

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

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

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you may use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

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

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you may use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

(4) The chemical identity is not readily discoverable through reverse engineering

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.

To demonstrate that the chemical identity is not readily discoverable through reverse engineering, answer question 3.7.

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

Review the requirements explained above and codified in § 350.13. Then, enter your response into the form field. If you need additional space for your answer, you may use an attachment.

Ensure that you only enter (or attach) confidential information in Part 2 (Unsanitized) and that all attachments with confidential information have the appropriate markings.

Section 4. Certification

An owner, operator, or senior official with management responsibility shall sign the certification stating 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.

The certification in both the sanitized and unsanitized versions of the substantiation must bear an original “wet” signature.

Certification Statement as found in Section 4. Certification of both Parts of this form.

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.

EPCRA Trade Secret Substantiation – Form Instructions

The response to question 4.1 may be done before or after printing. You must print both Parts to the Form prior to completing questions 4.2 and 4.3 because these questions require original wet ink entries and certification by the owner, operator, or senior official with management responsibility.

4.1 Name and Official Title: Enter the name and title of the owner, operator, or senior official with management responsibility who will be signing and dating under questions 4.2 and 4.3 to certify 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.

4.2 Signature: Provide an original wet ink signature of the owner or operator, or a senior official with management responsibility to certify 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.

4.3 Date: Enter the date when the certification was signed.
