

IV. What Are the Revisions?

Under section 322(f) of EPCRA and EPA's regulation at 40 CFR 350.23, EPA has the authority to disclose information to authorized representatives of the United States. Contractors and subcontractors who are hired to perform work for EPA in connection with EPCRA or regulations which implement EPCRA may be considered authorized representatives of the United States. EPA may engage contractors to assist with the handling and management of information submitted under EPCRA. The EPA contractor that handles trade secret claims submitted by facilities may change as the contract is recompeted and therefore the address for mailing the claims may change. The Agency is revising § 350.16 to provide a reference to obtain the correct address to mail trade secrecy claims and petitions for disclosure of information claimed as trade secret instead of publishing the address in the regulation. The address that appears in the current § 350.16 is for a contractor that is no longer authorized to handle trade secret claims. Any claims or petitions mailed to that address are forwarded to a new contractor as specified in the October 25, 2002 and February 6, 2003 **Federal Register** notices.

The EPA address in § 350.17(a) where a submitter may file an appeal to an EPA determination with the EPA General Counsel under § 350.11(a)(2)(i) or (b)(2)(i) is not correct. EPA has moved to a new location, and the amendment to this section reflects that change.

The third revision in the rule is to remove the substantiation form from § 350.27. Under the Paperwork Reduction Act, every federal agency must obtain approval from the Office of Management and Budget (OMB) before information can be collected from 10 or more members of the public. Since the substantiation form is used to collect information from facilities submitting trade secrecy claims, the Agency must prepare and submit to OMB for approval an Information Collection Request (ICR). The substantiation form contains the expiration date of OMB's approval. It also contains the burden estimate for completing this form and an address for submitting comments on the estimate or any other aspect associated with collection of this information. OMB usually approves the ICR and forms used to collect information for three years. EPA must then seek a renewal of the ICR and forms before the end of the three-year period; otherwise authority for collection of the information expires. The substantiation form that is currently

printed in the Code of Federal Regulations shows an approval expiration date of October 31, 1990. The ICR and the substantiation form have been renewed several times since October 1990. That form also provides outdated information on the burden estimate. Further, because EPA has moved to a new location, the address on that form for submitting comments is incorrect. Since the renewal takes place every three years, rather than amending the regulations to reflect the new approval expiration date and any other change to the form every three years, the Agency is removing the outdated form from the Code of Federal Regulations and post the most current approved substantiation form on the EPA Program offices' Web sites, Chemical Emergency Preparedness and Prevention Office), <http://www.epa.gov/ceppo> and Toxics Release Inventory Program Division, <http://www.epa.gov/tri>. The form can also be obtained by contacting National Service Center for Environmental Publications (NSCEP) at (800) 490-9198 or (513) 489-8190.

Also, the mailing address for trade secrecy claims as required in the Instructions for completing the EPA Trade Secret Substantiation Form (§ 350.27) is also outdated. This amendment identifies the Web sites that provide the mailing address for submitting trade secrecy claims.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or

the principles set forth in the Executive Order."

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review. This action only corrects addresses for submitting trade secrecy claims and petitions for disclosures, and for appealing determinations of insufficient trade secrecy claims. These corrections are due to the change of address and location of contractor handling trade secrecy claims as well as EPA location. The only other change is to remove an outdated trade secret substantiation form. This action does not change any regulatory burden on any of the facilities subject to the regulations in 40 CFR part 350.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action is only amending the regulations to provide the correct address to mail trade secrecy claims and petitions for disclosure, and any appeals to EPA determinations of insufficient trade secrecy claims. Also, the Agency is removing the substantiation form from the Code of Federal Regulations and post the current form on the program offices' Web sites. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR part 350 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050-0078, EPA ICR number 1428.05. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Abby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566-1672.

Burdens means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.