

**§ 350.16 Address to send trade secrecy claims and petitions requesting disclosure.**

All claims of trade secrecy under sections 303(d)(2) and (d)(3), 311, 312, and 313 and all public petitions requesting disclosure of chemical identities claimed as trade secret should be sent to the following address: EPCRA Reporting Center, Environmental Protection Agency, P.O. Box 3348, Merrifield, VA 22116-3348, Attn:—.

[59 FR 43048, Aug. 22, 1994]

**§ 350.17 Appeals.**

(a) *Procedure for filing appeal.* A submitter may appeal an EPA determination under §§ 350.11 (a)(2)(i) or (b)(2)(i), by filing an appeal with the General Counsel. The appeal shall be addressed to: The Office of General Counsel, U.S. Environmental Protection Agency, Contracts and Information Law Branch, Room 3600M, LE-132G, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

The appeal shall contain the following:

(1) A letter requesting review of the appealed decision; and

(2) A copy of the letter containing EPA's decision upon which appeal is requested.

(b) Appeal of determination of insufficient claim.

(1) Where a submitter appeals a determination by EPA under § 350.11(a)(2)(i) that the trade secrecy claim presents insufficient support for a finding of trade secrecy, the General Counsel shall make one of the following determinations:

(i) The trade secrecy claim at issue meets the standards of sufficiency set forth in § 350.13; or

(ii) The trade secrecy claim at issue does not meet the standards of sufficiency set forth in § 350.13.

(2) If the General Counsel reverses the decision made by the EPA office handling the claim, the claim shall be processed according to § 350.11(a)(1). The General Counsel shall notify the submitter of the determination on appeal in writing, by certified mail (return receipt requested). The appeal determination shall include the date the appeal was received by the General Counsel, a statement of the decision

appealed from, a statement of the decision on appeal and the reasons for such decision.

(3) If the General Counsel upholds the determination of insufficiency made by the EPA office handling the claim, the submitter may seek review in U.S. District Court within 30 days after receipt of notice of the General Counsel's determination. The General Counsel shall notify the submitter of its determination on appeal in writing, by certified mail (return receipt requested). The appeal determination shall include the date the appeal was received by the General Counsel, a statement of the decision appealed from, a statement of the decision on appeal and the reasons for such decision, and a statement of the submitter's right to seek review in U.S. District Court within 30 days of receipt of such notice. The petitioner shall be notified by regular mail.

(c) *Appeal of determination of no trade secret.* (1) If a submitter appeals from a determination by EPA under § 350.11(b)(2) that the specific chemical identity at issue is not a trade secret, the General Counsel shall make one of the following determinations:

(i) The assertions supporting the claim of trade secrecy are true and the chemical identity is a trade secret; or

(ii) The assertions supporting the claim of trade secrecy are not true and the chemical identity is not a trade secret.

(2) If the General Counsel reverses the decision made by the EPA office handling the claim, the General Counsel shall notify the submitter of its determination on appeal in writing, by certified mail (return receipt requested). The appeal determination shall include the date the appeal was received by the General Counsel, a statement of the decision appealed from, a statement of the decision on appeal and the reasons for such decision. The General Counsel shall send the petitioner the notice required in § 350.11(b)(1).

(3) If the General Counsel upholds the decision of the EPA office which made the trade secret determination, the submitter may seek review in U.S. District Court within 30 days of receipt of notice of the General Counsel's decision. The General Counsel shall notify