

Environmental Protection Agency

§ 350.27

Title III or regulations which implement Title III may be considered an authorized representative of the United States for purposes of this §350.23. Subject to the limitations in this §350.23(b), information to which this section applies may be disclosed to such a person if the EPA program office managing the contract, subcontract, or grant first determines in writing that such disclosure is necessary in order that the contractor, subcontractor or grantee may carry out the work required by the contract, subcontract or grant.

(2) No information shall be disclosed under this §350.23(b) unless this contract, subcontract, or grant in question provides:

(i) That the contractor, subcontractor or the grantee and the contractor's, subcontractor's, or grantee's employees shall use the information only for the purpose of carrying out the work required by the contract, subcontract, or grant, and shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected submitter or of an EPA legal office, and shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request by the EPA program office, whenever the information is no longer required by the contractor, subcontractor or grantee for the performance of the work required under the contract, subcontract or grant, or upon completion of the contract, subcontract or grant;

(ii) That the contractor, subcontractor or grantee shall obtain a written agreement to honor such terms of the contract or subcontract from each of the contractor's, subcontractor's or grantee's employees who will have access to the information, before such employee is allowed such access; and

(iii) That the contractor, subcontractor or grantee acknowledges and agrees that the contract, subcontract or grant provisions concerning the use and disclosure of confidential business information are included for the benefit of, and shall be enforceable by,

both EPA and any covered facility having an interest in information concerning it supplied to the contractor, subcontractor or grantee by EPA under the contract or subcontract or grant.

(3) No information shall be disclosed under this §350.23(b) until each affected submitter has been furnished notice of the contemplated disclosure by the EPA program office and has been afforded a period found reasonable by that office (not less than 5 working days) to submit its comments. Such notice shall include a description of the information to be disclosed, the identity of the contractor, subcontractor or grantee, the contract, subcontract or grant number, if any, and the purposes to be served by the disclosure. This notice may be published in the FEDERAL REGISTER or may be sent to individual submitters.

(4) The EPA program office shall prepare a record of disclosures under this §350.23(b). The EPA program office shall maintain the record of disclosure and the determination of necessity prepared under paragraph (b)(1) of this section for a period of not less than 36 months after the date of the disclosure.

§ 350.25 Disclosure in special circumstances.

Other disclosure of specific chemical identity may be made in accordance with 40 CFR 2.209.

§ 350.27 Substantiation form to accompany claims of trade secrecy, instructions to substantiation form.

(a) The substantiation form to accompany claims of trade secrecy must be completed and submitted as required in §350.7(a). The form is posted on the Chemical Emergency Preparedness and Prevention Office Web site, <http://www.epa.gov/ceppo> and the Toxics Release Inventory Program Division Web site, <http://www.epa.gov/tri>. Submitters may also contact the National Service Center for Environmental Publications (NSCEP) at (800) 490-9198 or (513) 489-8190 to obtain the form.

(b) Substantiation form to accompany claims of trade secrecy.