
15 U.S. Code § 2613

Confidential information

(a) In general

Except as provided in this section, the Administrator shall not disclose information that is exempt from disclosure pursuant to subsection (a) of section 552 of title 5 by reason of subsection (b)(4) of that section—

- (1) that is reported to, or otherwise obtained by, the Administrator under this chapter; and
- (2) for which the requirements of subsection (c) are met.

In any proceeding under section 552(a) of title 5 to obtain information the disclosure of which has been denied because of the provisions of this subsection, the Administrator may not rely on section 552(b)(3) of such title to sustain the Administrator's action.

(b) Information not protected from disclosure

(1) Mixed confidential and nonconfidential information

Information that is protected from disclosure under this section, and which is mixed with information that is not protected from disclosure under this section, does not lose its protection from disclosure notwithstanding that it is mixed with information that is not protected from disclosure.

(2) Information from health and safety studies

Subsection (a) does not prohibit the disclosure of—

- (A) any health and safety study which is submitted under this chapter with respect to—
 - (i) any chemical substance or mixture which, on the date on which such study is to be disclosed has been offered for commercial distribution; or
 - (ii) any chemical substance or mixture for which testing is required under section 2603 of this title or for which notification is required under section 2604 of this title; and

(B) any information reported to, or otherwise obtained by, the Administrator from a health and safety study which relates to a chemical substance or mixture described in clause (i) or (ii) of subparagraph (A).

This paragraph does not authorize the disclosure of any information, including formulas (including molecular structures) of a chemical substance or mixture, that discloses processes used in the manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, the portion of the mixture comprised by any of the chemical substances in the mixture.

(3) Other information not protected from disclosure

Subsection (a) does not prohibit the disclosure of—

- (A) any general information describing the manufacturing volumes, expressed as specific aggregated volumes or, if the Administrator determines that disclosure of specific aggregated volumes would reveal confidential information, expressed in ranges; or
- (B) a general description of a process used in the manufacture or processing and industrial, commercial, or consumer functions and uses of a chemical substance, mixture, or article containing a chemical substance

or mixture, including information specific to an industry or industry sector that customarily would be shared with the general public or within an industry or industry sector.

(4) Bans and phase-outs

(A) In general

If the Administrator promulgates a rule pursuant to section 2605(a) of this title that establishes a ban or phase-out of a chemical substance or mixture, the protection from disclosure of any information under this section with respect to the chemical substance or mixture shall be presumed to no longer apply, subject to subsection (g)(1)(E) and subparagraphs (B) and (C) of this paragraph.

(B) Limitations

(i) Critical use

In the case of a chemical substance or mixture for which a specific condition of use is subject to an exemption pursuant to section 2605(g) of this title, if the Administrator establishes a ban or phase-out described in subparagraph (A) with respect to the chemical substance or mixture, the presumption against protection under such subparagraph shall only apply to information that relates solely to any conditions of use of the chemical substance or mixture to which the exemption does not apply.

(ii) Export

In the case of a chemical substance or mixture for which there is manufacture, processing, or distribution in commerce that meets the conditions of section 2611(a)(1) of this title, if the Administrator establishes a ban or phase-out described in subparagraph (A) with respect to the chemical substance or mixture, the presumption against protection under such subparagraph shall only apply to information that relates solely to any other manufacture, processing, or distribution in commerce of the chemical substance or mixture for the conditions of use subject to the ban or phase-out, unless the Administrator makes the determination in section 2611(a)(2) of this title.

(iii) Specific conditions of use

In the case of a chemical substance or mixture for which the Administrator establishes a ban or phase-out described in subparagraph (A) with respect to a specific condition of use of the chemical substance or mixture, the presumption against protection under such subparagraph shall only apply to information that relates solely to the condition of use of the chemical substance or mixture for which the ban or phase-out is established.

(C) Request for nondisclosure

(i) In general

A manufacturer or processor of a chemical substance or mixture subject to a ban or phase-out described in this paragraph may submit to the Administrator, within 30 days of receiving a notification under subsection (g)(2)(A), a request, including documentation supporting such request, that some or all of the information to which the notice applies should not be disclosed or that its disclosure should be delayed, and the Administrator shall review the request under subsection (g)(1)(E).

(ii) Effect of no request or denial

If no request for nondisclosure or delay is submitted to the Administrator under this subparagraph, or the Administrator denies such a request under subsection (g)(1)(A), the information shall not be protected from disclosure under this section.

This document is only available to subscribers. Please log in or purchase access.

Purchase Login