

Overview TSCA CBI Claims and Policy

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Obligations of EPA with regard to data collected under TSCA

From an “information” management perspective, EPA has two obligations with regard to the data it collects via the Toxic Substances Control Act (TSCA):

- (1) Protect that data claimed as confidential (TSCA section 14).
- (2) Make available to the public that data not claimed as confidential (TSCA section 14 and the Freedom of Information Act-FOIA).

What can be claimed as confidential business information?

- Confidential Business Information (CBI) is broadly defined as (1) information is treated as confidential by the information submitter (the company), (2) the information has not been made available to the public before and (3) release of the data would injure the competitive position of the company.
- Under TSCA, health and safety data may not, as a rule, be claimed as CBI.

The Federal Toxics Program and the Public's Right to know.

- A central tenet of the federal toxics program has been the notion of the public's right-to-know (RTK) about chemicals in commerce and ensuring the ability of the public to participate in chemical reviews and decisions.

CBI claims distribution:

- New Chemicals: very large numbers of CBI claims.
- Existing Chemicals: health and safety data-considerably fewer claims.
- Existing Chemicals-IUR data: not considered health and safety data; some of the data had already been released in other contexts. Much of the details of the individual submissions were claimed as CBI.

Recent Problems of inappropriate CBI claims made in IUR filings:

- CBI claims made without the regulation mandated substantiations.
- CBI claims made on data that has already been made available in other submissions or in industry announcements.

Why inappropriate CBI claims cause problems:

- CBI is expensive to maintain and protect.
- Thwarts EPA commitment to make information on chemicals in commerce available to public.
- Undermines public confidence in EPA chemical management and industry product stewardship activities.

Questions/Contact

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