

(2) MAY PROVIDE FOR APPROPRIATE LEGAL REMEDIES IN THE EVENT OF A BREACH OF THE AGREEMENT, INCLUDING STIPULATION OF A REASONABLE PRE-ESTIMATE OF LIKELY DAMAGES; AND

(3) MAY NOT INCLUDE REQUIREMENTS FOR A POSTING OF A PENALTY BOND.

(F) NOTHING IN THIS STANDARD IS MEANT TO PRECLUDE THE PARTIES FROM PURSUING NONCONTRACTUAL REMEDIES TO THE EXTENT PERMITTED BY LAW.

(G) IF THE HEALTH PROFESSIONAL RECEIVING THE TRADE SECRET INFORMATION DECIDES THAT THERE IS A NEED TO DISCLOSE IT TO THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, THE MANUFACTURER OR EMPLOYER WHO PROVIDED THE INFORMATION SHALL BE INFORMED BY THE HEALTH PROFESSIONAL PRIOR TO ~~7-OR-AT-THE-SAME-TIME~~ AS ~~7~~ THE DISCLOSURE TO THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.

(H) IF THE CHEMICAL MANUFACTURER OR EMPLOYER DENIES A WRITTEN REQUEST FOR DISCLOSURE OF A SPECIFIC CHEMICAL IDENTITY, THE DENIAL MUST:

(1) BE PROVIDED TO THE HEALTH PROFESSIONAL WITHIN 30 DAYS OF THE REQUEST;

(2) BE IN WRITING;

(3) INCLUDE EVIDENCE TO SUPPORT THE CLAIM THAT THE SPECIFIC CHEMICAL IDENTITY IS A TRADE SECRET;

(4) STATE THE SPECIFIC REASONS WHY THE REQUEST IS BEING DENIED; AND

(5) EXPLAIN IN DETAIL HOW ALTERNATIVE INFORMATION MAY SATISFY THE SPECIFIC MEDICAL OR OCCUPATIONAL HEALTH NEED WITHOUT REVEALING THE SPECIFIC CHEMICAL IDENTITY.

(I) THE HEALTH PROFESSIONAL WHOSE REQUEST FOR INFORMATION IS DENIED UNDER SUBSECTION (H) OF THIS SECTION MAY REFER THE REQUEST AND THE WRITTEN DENIAL OF THE REQUEST TO THE COMMISSIONER FOR CONSIDERATION.

(J) (1) AFTER AN EMPLOYER OR MANUFACTURER CLAIMS A TRADE SECRET UNDER SUBSECTION (B) OF THIS SECTION OR WHEN A HEALTH PROFESSIONAL REFERS A DENIAL TO THE COMMISSIONER UNDER SUBSECTION (I) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER THE EVIDENCE TO DETERMINE IF:

(I) THE MANUFACTURER OR EMPLOYER HAS CARRIED THE BURDEN OF PROVIDING THAT THE CLAIM THAT THE SPECIFIC CHEMICAL IDENTITY IS A TRADE SECRET;

(II) THE HEALTH PROFESSIONAL HAS SUPPORTED THE CLAIM THAT THERE IS A MEDICAL OR OCCUPATIONAL HEALTH NEED FOR THE INFORMATION; AND