

(III) THE HEALTH PROFESSIONAL HAS DEMONSTRATED ADEQUATE MEANS TO PROTECT THE CONFIDENTIALITY.

(2) IF THE COMMISSIONER DETERMINES THAT THE SPECIFIC CHEMICAL IDENTITY OF A HAZARDOUS CHEMICAL IS NOT A BONA FIDE TRADE SECRET, OR THAT IT IS A TRADE SECRET BUT THE REQUESTING HEALTH PROFESSIONAL HAS A LEGITIMATE MEDICAL OR OCCUPATIONAL HEALTH NEED FOR THE INFORMATION, HAS EXECUTED A WRITTEN CONFIDENTIALITY AGREEMENT, AND HAS SHOWN ADEQUATE MEANS TO PROTECT THE CONFIDENTIALITY OF THE INFORMATION, THE MANUFACTURER OR EMPLOYER WILL BE SUBJECT TO CITATION BY THE COMMISSIONER.

(3) IF A MANUFACTURER OR EMPLOYER DEMONSTRATES TO THE COMMISSIONER THAT THE EXECUTION OF A CONFIDENTIALITY AGREEMENT WOULD NOT PROVIDE SUFFICIENT PROTECTION AGAINST THE POTENTIAL HARM FROM THE UNAUTHORIZED DISCLOSURE OF A TRADE SECRET SPECIFIC CHEMICAL IDENTITY, THE COMMISSIONER MAY ISSUE AN ORDER OR IMPOSE ADDITIONAL LIMITATIONS OR CONDITIONS UPON THE DISCLOSURE OF THE REQUESTED CHEMICAL INFORMATION AS MAY BE APPROPRIATE TO ASSURE THAT THE OCCUPATIONAL HEALTH SERVICES ARE PROVIDED WITHOUT AN UNDUE RISK OF HARM TO THE CHEMICAL MANUFACTURER OR EMPLOYER.

(4) FOLLOWING THE ISSUANCE OF A CITATION OR ANY PROTECTIVE ORDER, THE MANUFACTURER OR EMPLOYER MAY APPEAL THE COMMISSIONER'S DETERMINATION IN ACCORDANCE WITH §§ 37 AND 38 OF THIS SUBTITLE. IN ANY PROCEEDING ARISING UNDER THIS SECTION, THE BURDEN OF PROVING A CLAIM OF TRADE SECRET SHALL BE ON THE EMPLOYER OR MANUFACTURER ASSERTING THE CLAIM.

(K) NOTWITHSTANDING THE EXISTENCE OF A TRADE SECRET CLAIM, A MANUFACTURER OR EMPLOYER SHALL, UPON REQUEST, DISCLOSE TO THE COMMISSIONER ANY INFORMATION WHICH THIS SECTION REQUIRES THE MANUFACTURER OR EMPLOYER TO MAKE AVAILABLE. IF THERE IS A TRADE SECRET CLAIM, THAT CLAIM SHALL BE MADE NO LATER THAN AT THE TIME THE INFORMATION IS PROVIDED TO THE COMMISSIONER SO THAT SUITABLE DETERMINATIONS OF TRADE SECRET STATUS CAN BE MADE AND THE NECESSARY PROTECTION CAN BE IMPLEMENTED.

(L) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING THE DISCLOSURE UNDER ANY CIRCUMSTANCES OF PROCESS OR PERCENTAGE OF MIXTURE INFORMATION WHICH IS A TRADE SECRET.

SECTION 2. AND BE IT FURTHER ENACTED, That the initial chemical information lists based upon available information and any available material safety data sheets required under this Act shall be compiled initially and made available to the appropriate persons no later than December 31, 1984.

SECTION 3. AND BE IT FURTHER ENACTED, That manufacturers and distributors shall comply with §§ 32J and 32K no later than November 25, 1985.