

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (EXCERPT)
Act 154 of 1974

408.1014d Trade secret claims; petition; review; confidentiality; determination; final order; revocation of order; hearing; exemption of records and information from disclosure under freedom of information act; providing director with specific chemical identity and percentage composition of hazardous chemical.

Sec. 14d.

(1) Upon request of the director, an employer who claims a trade secret under the standard incorporated by reference by section 14a shall support the trade secret claim. Subject to subsection (2), the director shall consider the following factors in determining whether a specific chemical identity may be withheld as a trade secret:

- (a) The extent to which the information is known outside the employer's business.
- (b) The extent to which it is known by employees and others involved in the employer's business.
- (c) The extent of measures taken by the employer to guard the secrecy of the information.
- (d) The value of the information to the employer and the employer's competitors.
- (e) The amount of effort and money expended by the employer in developing the information.
- (f) The ease or difficulty with which the information could be properly acquired or duplicated by others.

(2) The determination made by the director under subsection (1) shall not uphold as a trade secret any chemical identity information that is readily discoverable through reverse engineering.

(3) This section shall not be construed to require the prior approval of trade secret claims by the director.

(4) An exposed employee, a health professional providing medical or other occupational health services to exposed employees, or an authorized employee representative of an exposed employee may petition the director to review a denial of a written request for disclosure of a specific chemical identity. This review shall be conducted as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall be confidential. The director shall review the assertion of trade secrecy and make a determination in accordance with the principles provided in this section and the standard incorporated by reference in section 14a. In preparing the final order, the director shall consider and require any prudent measures necessary to protect the health of employees or the public in general while maintaining the confidentiality of any trade secrets.

(5) The director may revoke any order entered under subsection (4) upholding a trade secret claim after a hearing involving the parties of interest upon showing that a party has not complied with an order issued pursuant to subsection (4).

(6) Records and information obtained by any department, commission, or public agency related to a review by the director under subsection (4) and to information determined by the director to be a trade secret in that review is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) Notwithstanding that information has been claimed as a trade secret pursuant to 29 CFR 1910.1200(i) or has been upheld by the director as a trade secret under this section, a chemical manufacturer, importer, or employer shall provide the specific chemical identity and percentage composition of a hazardous chemical to the director when the director requests that information in the discharge of the director's duties under this act.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986 ;-- Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012