

1 Department of Labor and Industry
2 Occupational Safety and Health Division

3
4 Adopted Rules Implementing the Provisions of the Employee
5 Right-to-Know Act of 1983 Governing Trade Secrets and Employees'
6 Conditional Right to Refuse to Work

7
8 Rules as Adopted

9 Chapter Seventeen:

10 Trade Secrets

11 8 MCAR S 1.7220 Trade secret registration.

12 A. Registration. A manufacturer or employer who believes
13 that all or part of the information required under the Employee
14 Right to Know Act, Laws of Minnesota 1983, chapter 316, is a
15 trade secret as defined in Minnesota Statutes, section 325C.01,
16 subdivision 5, may register the information with the
17 commissioner as trade secret information. Information ~~so~~
18 ~~required-which-is-certified~~ which has been classified for
19 national security purposes by appropriate officials of the
20 United States ~~as-necessarily-kept-secret-for-national-defense~~
21 purposes may also be registered with the commissioner provided
22 the commissioner has been granted necessary security clearance
23 and duly authorized to receive such classified information.

24 B. Formulations and procedures. Formulations or procedures
25 are trade secrets and need not be registered to be considered
26 trade secrets.

27 C. Required information. Trade secret registration of the
28 name of a hazardous substance must include the following
29 information:

30 1. the name or names of the hazardous substance including
31 any generic or chemical name, trade name, commonly used name,
32 and the American Chemical Society's Chemical Abstract Service
33 (CAS) number for that substance;

34 2. a brief description of why it is a trade secret; and

35 3. the name of a person who can be contacted for
36 additional information relevant to the trade secret.

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1 D. Expiration of registration. A registration expires two
2 years after its filing date unless the registration is renewed.
3 The commissioner shall notify registrants of an impending
4 expiration date.

5 E. Classification of data. Trade secret information that is
6 registered with the commissioner or other information reported
7 to or otherwise obtained by the commissioner or a representative
8 of the commissioner in connection with any inspection or
9 proceeding under Minnesota Statutes, chapter 182 which contains
10 or might reveal a trade secret is nonpublic or private data as
11 defined in Minnesota Statutes, section 13.02, subdivisions 9 and
12 12. Information that is classified as nonpublic or private,
13 except that which is secret for national defense security
14 purposes, may be disclosed to other officers or employees
15 carrying out Minnesota Statutes, chapter 182, when relevant in
16 any proceeding under this chapter, or when otherwise required in
17 order to comply with federal law or regulation but only to the
18 extent required by the federal law or regulation. The
19 commissioner must protect nonpublic or private information by
20 establishing security procedures to prevent its unauthorized use
21 or disclosure. Nothing in this chapter may be construed as
22 limiting rights, objectives, or remedies regarding trade secrets
23 covered under Minnesota Statutes, chapter 325C, or the
24 obligations applicable to classified information under rules and
25 regulations of the United States for protecting classified
26 information.

27 F. Disclosure. If the commissioner determines that
28 disclosure of nonpublic or private information is essential to
29 protect employees from imminent danger or ~~otherwise-to-protect~~
30 ~~the-health-and-safety-of-employees~~ when necessary to expedite
31 provision of medical services to an employee, he must notify the
32 appropriate manufacturer or employer of his decision by
33 telephone or certified mail and timely disclose the information
34 only to the extent necessary and only to the people necessary to
35 aid in efforts to alleviate the danger.

36 G. Determination by commissioner. On the request of a

1 manufacturer, employer, employee, or employee representative,
2 deemed by the commissioner to have a legitimate health or safety
3 interest in the information, the commissioner must determine
4 whether information registered pursuant to the requirements of
5 this chapter or otherwise reported to or obtained by the
6 commissioner is a trade secret as defined in Minnesota Statutes,
7 section 325C.01, subdivision 5. If the commissioner determines
8 that information is not a trade secret ~~and should be disclosed~~
9 ~~to the public~~, the commissioner must notify the registering
10 manufacturer or employer of the decision by certified mail. The
11 registering manufacturer or employer has 15 days after receipt
12 of notification to provide the commissioner by certified mail
13 with a complete justification and statement of the grounds on
14 which the information is a trade secret. The commissioner must
15 review his determination of whether information should be
16 protected as a trade secret within 15 days after receipt of the
17 justification and statement, or if no justification and
18 statement is filed, within 30 days of the original notice, and
19 must notify the appropriate manufacturer or employer and any
20 party who has requested the information of that determination by
21 certified mail. If the commissioner determines that the
22 information is not a trade secret, the final notice must also
23 specify a date, not sooner than 15 days after the date of
24 mailing of the final notice, when the information shall be
25 ~~available~~ disclosed to the ~~public~~ requesting party. Prior to
26 the date specified in the final notice, the registering
27 manufacturer or employer may institute an action for a
28 declaratory judgment as to whether the information is subject to
29 protection as a trade secret.

30 Chapter Nineteen:

31 Discrimination Against Employees

32 8 MCAR S 1.7240 Authority and background.

33 Minnesota Statutes, sections 182.654, subdivisions 9 and
34 11, and 182.669 prohibit discrimination against an employee
35 because the employee exercised any rights granted under the act
36 on the employee's behalf or on behalf of others. Any employee

1 who believes that he or she has been discharged or discriminated
2 against by any person because the employee exercised any right
3 authorized by the act as described in 8 MCAR S 1.7243, may file
4 a discrimination complaint with the commissioner of the
5 Department of Labor and Industry.

6 8 MCAR S 1.7241 Purpose and scope.

7 The rules in this chapter implement Minnesota Statutes,
8 sections 182.654, subdivisions 9 and 11, and 182.669 and set
9 forth general policies for enforcement of the discrimination
10 provisions of the act.

11 8 MCAR S 1.7243 Protected activities.

12 A. [Unchanged.]

13 B. Refusal to work under unsafe conditions.

14 1. [Unchanged.]

15 2. If an employee has a choice between not performing
16 assigned tasks or subjecting himself to serious injury or death
17 arising from a hazardous condition in the workplace, an employee
18 acting in good faith may refuse to work if there is no
19 reasonable alternative. The condition must be so hazardous that
20 a reasonable person would conclude that there is a real danger
21 of death or serious injury and that there is insufficient time
22 to eliminate the danger through enforcement procedures. The
23 employee must, where possible, request the employer to correct
24 the hazardous condition. An employer may not discharge or
25 discipline an employee who refuses to perform assigned tasks
26 under these conditions. An employee who has refused in good
27 faith to perform assigned tasks and who has not been reassigned
28 to other tasks by the employer must, in addition to retaining a
29 right to continued employment, be paid for the tasks which would
30 have been performed if:

31 a. the employee requests, within 24 hours of the
32 refusal, excluding weekends and state holidays, the commissioner
33 to inspect and determine the nature of the hazardous condition;
34 and

35 b. the commissioner determines that the employee, by

1 performing the assigned tasks, would have been placed in
2 imminent danger of death or serious physical harm.

3 3. An employee who has been assigned to work with a
4 hazardous substance, harmful physical agent, or infectious
5 agent, under conditions which are inconsistent with the training
6 or information provided by the employer under 8 MCAR SS 1.7206
7 and 1.7207, and who, after notifying the employer of the
8 hazardous condition, has refused in good faith to perform
9 assigned tasks and who has not been reassigned to other tasks,
10 been provided the required training, or had the hazardous
11 condition promptly abated, by the employer shall, in addition to
12 retaining a right to continued employment, receive pay for the
13 tasks which would have been performed if:

14 a. the employee requests, within 24 hours of the
15 refusal, excluding weekends and state holidays, the commissioner
16 to inspect and determine if a hazardous condition exists; and

17 b. the commissioner determines that the employer has
18 failed to provide the training required under 8 MCAR S 1.7206
19 prior to the employee's initial assignment to a workplace if the
20 employee may be routinely exposed to a hazardous substance,
21 harmful physical agent, or infectious agent and the employer has
22 failed to provide the information required under 8 MCAR SS
23 1.7206 and 1.7207 after a request within a reasonable period of
24 time, but not to exceed 24 hours, of the request.

25 C.-F. [Unchanged.]

26 8 MCAR S 1.7245 Claim procedures.

27 A. Who may file. A complaint alleging discrimination under
28 Minnesota Statutes, sections 182.654, subdivisions 9 and 11, and
29 182.669 may be filed by an employee or an authorized employee
30 representative.

31 B.-D. [Unchanged.]