

## **69509.1 Department Review of Claims of Trade Secret Protection**

### **(a)**

Review of Support for Trade Secret Designation. The Department shall review a trade secret claim and supporting information for compliance with the requirements of this article before disclosing the information that is the subject of the trade secrecy claim.

### **(b)**

Additional Information Requirements. (1) If the Department determines that information provided in support of a request for trade secret protection is incomplete or insufficiently responsive to permit a trade secrecy determination, the Department shall: (A) Provide notice to the submitter of the Department's finding of insufficiency, and the basis therefor; (B) Identify the specific area(s) for which additional information is needed; and (C) Indicate the date by which the submitter must provide the requested information. (2) If the submitter fails to provide the information within the time frame specified, the Department shall provide notice to the submitter by certified mail that the claim is out of compliance with this article, and that the information claimed to be trade secret will be considered a public record subject to disclosure by the Department thirty (30) days after such notice is mailed. During this 30-day period, the submitter may seek judicial review by filing an action for a preliminary injunction and/or

declaratory relief.

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**(B)**

Identify the specific area(s) for which additional information is needed; and

**(C)**

Indicate the date by which the submitter must provide the requested information.

**(2)**

If the submitter fails to provide the information within the time frame specified, the Department shall provide notice to the submitter by certified mail that the claim is out of compliance with this article, and that the information claimed to be trade secret will be considered a public record subject to disclosure by the Department thirty (30) days after such notice is mailed. During this 30-day period, the submitter may seek judicial review by filing an action for a preliminary injunction and/or declaratory relief.

**(c)**

Notice to Submitter. If the Department determines that the information provided pursuant paragraphs (2) through (11) of section 69509(a) in support of a trade secret claim does not establish that the information claimed to be trade secret

meets the definition of "trade secret" in section 69501.1(a)(66), the Department shall provide notice to the submitter by certified mail of the Department's determination and the fact that the information claimed to be trade secret will be considered a public record subject to disclosure by the Department thirty (30) days after such notice is mailed. During this 30-day period, the submitter may seek judicial review by filing an action for a preliminary injunction and/or declaratory relief.

**(d)**

Judicial Review. If a person asserting a claim of trade secret protection initiates an action for a preliminary injunction and/or declaratory relief under subsection (b)(2) or (c), the Department may not publicly release or disclose the information that is the subject of the claim of trade secret protection until resolution of any court challenge, including any appeals.