

LIMITED ISSUE

RIGHTS AND RESPONSIBILITIES OF EMPLOYEES

UNDER

CAL/OSHA,

This Booklet explains how to use
the California Occupational
Safety and Health Act of 1973
(CAL/OSHA) to eliminate the
conditions which make your
job unsafe or unhealthy. //

CENTER FOR LABOR RESEARCH AND EDUCATION, /

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PREFACE

This Booklet is dedicated to the improvement of the job safety and health of the more than seven million working people in the state of California. The new California law, described in detail on the following pages, represents more than just new rights for employees and new controls over unsafe and unhealthful working conditions. This new law, having passed both Houses of the State Legislature by more than two-thirds majorities, represents a clear commitment in California to the elimination of unsafe and unhealthy working conditions for both public sector and private sector employees.

The new law is known as the California Occupational Safety and Health Act of 1973 (AB-150 by Assemblyman Jack Fenton). It is an outgrowth of the Federal Occupational Safety and Health Act of 1970, which extended the right to a safe and healthy workplace to almost all working people in the United States.

It is important to realize that these new laws set the stage and provide the authority for a governmental regulatory program. But, governmental regulatory programs are only part of the answer. Equally important in the implementation of these laws is the willingness of employees to communicate their concerns about health and safety hazards to appropriate individuals so that hazardous conditions may be eliminated without delay.

**RIGHTS AND RESPONSIBILITIES
OF
EMPLOYEES
UNDER THE
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (CAL/OSHA)**

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INTRODUCTION

How to Use this Booklet

This Booklet covers the important aspects of the California Occupational Safety and Health Act of 1973 from the employees point of view. Its purpose is to help employees to stimulate corrective action on job safety and health hazards.

To use this Booklet, first read it all the way through to familiarize yourself with the law and the methods that it provides for investigating, evaluating and controlling health and safety problems. Then, to handle a specific problem, look at the Table of Contents in the front of the Booklet and select the sections which are pertinent to your needs.

It is important to note that, because the California Occupational Safety and Health Act of 1973 is new, some sections of this Booklet had to be based on the best judgment of the authors rather than actual experience with the application of the law. Topics falling in this category include protection against retaliation, refusal to work in violation of standards, relationship to union contracts, and details of the inspection procedure. Employees should recognize this fact and should use the law in a careful and deliberate manner until it has been more clearly defined by court rulings.

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THE FEDERAL AND STATE LAWS

What is Federal OSHA

OSHA stands for the Occupational Safety and Health Administration, a branch of the U. S. Department of Labor. OSHA was created by an Act of Congress, the Occupational Safety and Health Act of 1970 (PL 91-596), to provide for adopting and enforcing worker safety and health standards throughout the United States.

What is CAL/OSHA

In passing the California Occupational Safety and Health Act, the State of California responded to a provision in the Federal Act which allows for state-run programs in job safety and health instead of federally-run programs. According to the Federal Act, all state programs must enforce standards which are at least as effective as federal standards and must cover public sector employees as well as private sector employees. Therefore, the California program, CAL/OSHA, covers city, county and state employees, and employees of most private corporations and businesses. To carry out this program, the state receives federal funds. In return, the state program must be responsive to federal law, federal guidelines and federal supervision.

Who is Covered by CAL/OSHA

Both public and private employees are covered by the Act, and it does not matter how few people are on the employer's payroll. However, certain employees are exempt from the Act's coverage, usually because they are already covered by other state or federal safety regulations. Thus, the Act applies to all workers [6303(a)]* except:

- Federal employees
- Household domestic workers
- Coal miners
- Metal and non-metal miners
- Railway workers not employed in railway shops
- Some motor carrier drivers on the road
- Airline pilots
- Some maritime workers
- Pipeline transport workers
- Workers covered by Atomic Energy Commission regulations

*References to specific sections of the California Act appear in brackets such as [6300(a)]. The basic reference for this new legislation is California Labor Code.

How Job Safety and Health is Enforced

Under CAL/OSHA, the State Division of Industrial Safety is responsible for making sure that all places of employment are safe and in compliance with applicable health and safety standards [6307]. As part of this responsibility, the Division must prepare and distribute information on the prevention of occupational accidents and diseases. The Division must also provide occupational health and safety training programs and job safety and health consulting services upon request.

The Division of Industrial Safety also has broad investigatory powers to inspect workplaces for violations of safety and health standards and generally unsafe and unhealthful conditions. When violations are found, the Division must inform the employer in writing and require the employer to correct the problem. This process of finding and correcting violations is structured to allow employees and employers to present their respective views of the problem. And, to insure the employee's freedom to complain, the California Act includes provisions intended to protect the employee from employer retaliation for his/her exercise of employee rights under the Act.

Civil fines and criminal penalties in the California Law give the Division's enforcement powers their real bite. Although public employers are not subject to the civil fines provided in the Act, they may be prosecuted under the criminal penalty provisions [6423, 6425, 6426]. Because the criminal prosecutions must be pressed by local district attorneys who are often very busy, it may be necessary for employees or others to press the district attorney to prosecute any given case. To encourage and support such prosecutions, the California Law provides for a new Bureau of Investigations. This new Bureau is responsible for conducting special investigations and preparing cases for prosecution involving violations of standards and safety orders in which there has been a serious injury or death [6315].

It should be noted that the term "employer," as defined in the Act, includes every officer, management official and supervisor having direction or custody of any employment or other employee. Thus, when line supervisors or others in supervisory positions from foremen on upward become aware of a safety or health problem, they must take all reasonable steps to correct the problem or risk criminal prosecution should a serious injury or death occur [6423, 6425]. This means that any person who is in charge of other employees should take prompt action to eliminate job hazards as soon as he/she learns of them.

How CAL/OSHA Relates to Unions

The California Occupational Health and Safety Act gives rights to individual employees. The Act also gives unions rights to file complaints and to be kept informed. Thus, your union or employee organization can be indispensable in assuring your rights to a safe and healthful workplace. Unions can and do develop health and safety policies which are addressed directly to their members' health and safety problems. Therefore, when you have a complaint, it is in your best interest to be aware of your union's policies. Your union representative can explain the union's policy to you.

Your union representative may have developed considerable expertise in using the procedures which CAL/OSHA requires you to follow. The union can help you file a complaint. Similarly, it can make sure that neither the California OSHA agency nor your employer undercuts your right to action and answers. The union can also protect your right to remain anonymous by having the union representative sign the complaint. The union may also exert direct pressure on the employer to correct work hazards.

In addition to CAL/OSHA protections, your union may have specifically provided for alternative ways to enforce safe and healthful working conditions. Some union contracts contain health and safety clauses which put the employer under a contractual duty to maintain a safe and healthy workplace. If these contracts also provide for grievance and arbitration procedures, the union may pursue your health and safety grievance through this channel. In fact, the union may have developed policies and procedures which deal more effectively with health and safety problems than CAL/OSHA. For this reason and others, you should be aware of any union policy in this area. In any event, the law says that a worker always has recourse to OSHA's procedures. In other words, you retain your rights to file a complaint under CAL/OSHA regardless of the fact that your complaint went through negotiated procedures.

Your union can also help protect you against any employer retaliation which results from the exercise of your rights to a safe and healthy job. For instance, if your employer discriminates against you because you complained about a safety hazard, the union can help you use the specific procedures that CAL/OSHA provides for preventing such retaliation. Or the union may have special procedures under the union contract for pursuing employee complaints about employer reprisals, such as dismissal or demotion. For more information, see the section in this Booklet entitled, "Protection of the Employee Against Retaliation."

If you are an employee of a public agency where collective bargaining is not fully developed, your employee organization may not have a grievance or arbitration procedure. Nonetheless, health and safety issues are still subject to the "meet and confer" procedures which exist in the public sector.

DECIDING IF A SAFETY OR HEALTH HAZARD EXISTS

Safety Hazards

A safety hazard can be defined as a situation in which you or your fellow employees may be injured or killed. Some examples of common safety hazards are faulty electrical wiring, platforms with no railings, unguarded gears, belts and pulleys, careless use of flammable solvents, power grinding without eye protection, and countless other job situations where people may be electrocuted, burned, cut, crushed, blinded, or otherwise hurt. Safety standards prescribe job conditions designed to prevent these accidents. While you should be familiar with the safety standards for your job, you should not worry about being a safety expert. If you feel that safety standards are being violated or that your job is somehow unsafe, you should discuss the problem with your supervisor and/or union representative or file a complaint as described later in this Booklet. Your responsibility is to make your questions known so that experts representing your employer, your union, or CAL/OSHA can decide if there is a problem.

Health Hazards

A health hazard is usually more complicated than a safety hazard, but can be defined as a job situation where you or your fellow employees can be poisoned or made sick by chemicals or other harmful agents such as heat, noise, x-rays, microwaves, dust, fumes or gases. Examples of some job-caused illnesses are headaches from automobile exhaust, skin rashes from use of solvents, lung disease from inhalation of dust, hearing loss from loud noise, eye damage from arc welding, and cancer from contact with certain chemicals. Job health hazards are more difficult to evaluate than safety problems. Therefore, do not hesitate to ask for help. CAL/OSHA includes health standards designed to protect worker health, so if you or your fellow employees feel that something on your job is damaging your health, talk to your supervisor and/or union representative, or file a complaint.

The U. S. Congress recognized that some safety and health problems were too complicated to be solved by routine enforcement programs such as provided by OSHA. To cope with complex problems, particularly with regard to employee health, and to

carry out research, Congress created a new agency known as the National Institute of Occupational Safety and Health (NIOSH). For a description of NIOSH and how it may be used, see the section in this Booklet entitled, "Safety and Health Research."

How Safety and Health Standards are Established

California has a set of occupational safety and health standards which set minimum conditions the employer must maintain in order to have a safe workplace. Any violation of these standards is presumed to create a hazard and must be cited in writing when noted by inspectors from the Division of Industrial Safety.

In the future, all new or revised standards will be adopted by the California Occupational Safety and Health Standards Board, a new agency created by CAL/OSHA. This is the only state agency authorized to adopt occupational safety and health standards enforceable under the California Act. All meetings of this Board are open to the public. Furthermore, at each meeting, time must be provided for interested people such as affected employees and employee representatives to propose new or revised standards. The Board must report its decisions of these proposed new or revised standards within six months [142.2]. Concerned employees can use this opportunity to work for needed standards where standards are either inadequate or non-existent.

Newspapers in San Francisco, Sacramento, Fresno, Los Angeles and San Diego will carry notices of all Board meetings. Written notice of Board meetings can be received by sending a written request in a letter to the Occupational Safety and Health Standards Board, California Department of Industrial Relations, 1006 Fourth Street, Sacramento, California 95814.

Getting Copies of CAL/OSHA Standards

California's occupational safety and health standards are published under Title 8, California Administrative Code and are known as the California Safety Orders. Of this group of orders, two sets, the General Industry and the Construction Safety Orders, include the standards and regulations that apply to most places of employment in the state. Copies may be obtained by writing to the State of California, Documents Section, P. O. Box 20191, Sacramento, California 95820. See the Appendix in the back of this Booklet for a price list of all of the currently available safety orders.

Federal OSHA Standards

Under the Federal Law (PL 91-596), California's standards must be as effective as the nationwide standards published by the United States Department of Labor, Occupational Safety and Health Administration (OSHA). A copy of these federal

standards may be obtained at no cost from the United States Department of Labor, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Box 36017, San Francisco, California 94102.

HOW HAZARDS ARE INVESTIGATED UNDER CAL/OSHA

The Routine Inspection

An inspector can visit a place of employment at the Division of Industrial Safety's own initiative to make a routine health and safety inspection [6309]. Even though this is a routine inspection, the inspector must inform the employer of his arrival and must seek out an employee representative to accompany the inspector during the inspection process. Where there is no authorized employee representative, the inspector must consult privately with a reasonable number of employees so that they have the chance to tell the inspector about health and safety problems [6314(d)]. Also, any employee, employee representative or employer has the right to talk privately to the inspector during the course of any inspection or investigation [6314(d)].

In addition, the Division must investigate the causes of any on-the-job fatality of one worker or any serious injury to five or more workers [6313(a)]. The U. S. Department of Labor will also continue to probe catastrophes and fatalities for purposes of accident analyses.

But don't wait for a routine inspection or a serious accident if you feel that there are health or safety problems on your job. Talk to your supervisor or union representative, or file a complaint or telephone directly to the Division. Because of the great many places of employment and the limited number of inspectors, the chance of an inspector visiting your job on a routine inspection is about once in ten to twenty years.

Inspection Resulting from an Employee Complaint

California's Occupational Safety and Health Act gives you the right as an employee to bring a CAL/OSHA inspector to your job by making an official complaint directly to the Division of Industrial Safety. You do not have to talk to anyone before making the complaint, and the Division by law must not reveal your name to anyone if you tell the Division that you wish to remain anonymous [6309]. In some situations, however, speaking to a supervisor or a union representative may solve the problem. Employers who are interested in the health and safety of employees will voluntarily correct problems without any need for intervention by CAL/OSHA inspectors. In addition, unions are becoming more and more concerned with health and safety and are changing their

contracts with employers to provide procedures for better resolution of job health and safety problems. Unions also have the right to use the complaint procedure to bring CAL/OSHA inspectors to places of employment within their jurisdictions. Thus, the employee has several alternatives when faced with a particular health or safety problem and should use the approach which fits his/her circumstances best.

Refusal to Work on Dangerous Jobs

There is one more special method for controlling extreme danger only. CAL/OSHA says that any employee may refuse to work in a situation where official safety or health standards are violated, if such a violation creates a real and apparent hazard to the employee or his fellow employees [6311]. In other words, under California law, employees may refuse to work on jobs where such work would clearly expose them or their workmates to extreme danger to life or limb. In these cases, the employer is forbidden from laying off or otherwise discriminating against employees who refuse to work [6311].

It is important to recognize that refusal to work is an unusual remedy that should only be used when actually necessary. Additionally, the law is new and untested in this area and refusal to work where the danger is not clear could result in layoffs or loss of wages. Therefore, if you must use this section of the law to protect yourself, inform your supervisor and immediately call the nearest office of the State Division of Industrial Safety (a list of telephone numbers is included in the back of this Booklet). Also, contact your union, take photographs if possible, note the names of witnesses and send follow-up letters to confirm your telephone calls to the Division of Industrial Safety and others.

If you are laid off or discharged for refusal to work as described here, CAL/OSHA can protect you against such action, but only if you act within 10 days of the alleged discriminatory action. Within 10 days you must notify your employer that you intend to file a complaint with the State Labor Commissioner. Then within 30 days of the discriminatory action, you must actually file the complaint with the Labor Commissioner. A list of addresses and phone numbers of the offices of the State Labor Commissioner are listed in the Appendix of this Booklet. Upon receiving your complaint, the Division of Labor Law Enforcement must investigate. If Sections 6310 or 6311 of the California Act have been violated, the Division of Labor Law Enforcement must bring appropriate court action at no cost to the employee to bring about rehiring or reinstatement of the employee to his former position with back pay [6312].

Additionally, your union will be able to help you cope with these problems by assisting with filing complaints representing you as provided in their labor-management agreement. For a more complete discussion of protection against retaliation see the section in this Booklet entitled, "Protection of the Employee Against Retaliation."

HOW TO USE THE COMPLAINT PROCEDURE

Filing a Complaint

Filing a complaint about a job safety or health problem is simple. Just write a letter or send a filled-out complaint form to the Division of Industrial Safety's regional office nearest you. If the situation is so bad that someone is likely to be injured or killed before you can write a letter or fill out a form, immediately telephone the nearest office of the Division of Industrial Safety. The addresses and phone numbers of these offices throughout California are listed in the Appendix at the end of this Booklet. If you do telephone the Division regarding a job hazard, you should follow up the phone call with a brief complaint letter or form so that your complaint is documented in writing. The written complaint IS important, because it can be used to protect you against retaliation. It also assures that you will be kept informed of the Division's findings. These two points are covered in more detail later in this Booklet.

The letter you write or the complaint form that you fill out should contain sufficient detail to enable the Division to determine that the situation calls for an inspection. But, you are not expected to be an expert, so state the problem in your own words without exaggerating the condition, as there are penalties for knowing falsification [6426]. A sample complaint letter and complaint form are provided for you in the Appendix.

Your Right to Remain Anonymous

You have a right to remain anonymous when making the complaint [6309]. Nevertheless, you should sign the complaint and indicate that you wish to remain anonymous. You should retain a copy of the complaint letter or form for your files.

An employee representative such as a union business agent or union official also has the right under CAL/OSHA to file a complaint and to request a health or safety inspection [6309]. In some cases, it may be best for the employee to avoid any possibility of trouble with his employer over health and safety matters by simply asking a person from the employee organization or union to sign the complaint and to follow up on it.

Getting Complaint Forms

As of the date of this writing, the State Division of Industrial Safety was not distributing complaint forms. This is unfortunate, because for many people, writing a letter of complaint is difficult. A complaint form simplifies the process, yet

insures that pertinent information is included. Additionally, a second copy of the form can be retained to provide a written record for the person or employee group making the complaint.

Federal OSHA recognized the need for such forms and has distributed them widely as part of its nationwide program. In the absence of state complaint forms, Federal OSHA has indicated that their forms may be used to file CAL/OSHA complaints. These federal forms are available from the United States Department of Labor, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Box 36017, San Francisco, California 94102. Complaints may be sent to this address as well as the offices of the State Division of Industrial Safety. However, current policy is that any complaints sent to the federal address will be forwarded to the state program for action, but a federal inspector will accompany the state inspector during the investigation. (See Appendix for copy of federal complaint form.)

The Importance of a Written Complaint

Remember, there is nothing special about a complaint form--it's just an easy way for you to get the necessary facts on a piece of paper. So if you can't get a blank complaint form, write a complaint letter to the Division. You do not have to be an expert in safety or health to write a complaint letter. Follow the example letter shown in the Appendix, using your own words to describe the problem or problems.

You can also telephone a complaint to the Division. Telephoned complaints, however, are not recommended except in emergencies for the following reasons:

1. You should have a written record of the complaint, particularly if you represent other employees.
2. Without a written complaint in their files, the Division will not be able to keep you informed of the results of their inspection.
3. If your employer discriminates against you for filing a complaint, a written record will help the Labor Commissioner to protect you. If there is no record that you complained, it might be difficult for you to show that your discrimination problem was the result of a job safety complaint.
4. If the employer fails to correct the unsafe condition and someone is subsequently injured, the written record may be valuable in assuring the victim proper compensation.

If you do telephone the Division, be sure to: (1) follow the phone call with a confirming complaint or letter and (2) keep a copy for your file.

What Happens After the Complaint is Filed

Within three days from the Division's receipt of your complaint, they must respond [6309]. Either an inspector will visit the workplace with no advance warning, or you will receive a letter explaining that your complaint does not have a reasonable basis for requiring an inspection. Or, the Division may decline to inspect because they determined that you filed the complaint for harassment purposes only. In any event, if there is no inspection, you must be given reasons in writing by the Division [6309]. If you do not get an inspection in response to your valid complaint, see the section in this Booklet entitled, "What if the State Program Fails to Act."

What About Advance Warning of the Inspection

The law provides special penalties of up to six months in jail and/or \$1,000 fine to any person who gives advance notice of any inspection [6321]. This is to prevent the employer from temporarily discontinuing hazardous operations just prior to the official inspection. The Chief of the Division of Industrial Safety may authorize advance warning of an inspection in special cases, such as an extreme hazard situation.

THE INSPECTION TOUR

What to Do During the Inspection

An inspector may come to a workplace on a routine inspection or in response to an employee complaint. In either case, the procedures involved are the same. Upon arrival, the inspector will show his credentials to the employer; this allows the inspector free access to any workplace. The employer may have a management representative accompany the inspector. Employees also have the right to have a representative accompany the inspector [6314]. This is an important employee right which should be utilized.

The law says the inspector is not to be hampered or obstructed in his/her inspection. Any delays in the inspection due to problems over choosing the employee representative could be construed as hampering the inspector. In this event, the inspector may proceed without an employee representative. If there is no employee representative the inspector must interview employees [6314]. The interviewing, however, is probably less effective than an employee representative accompanying the inspector, because the employees chosen at random by the inspector are less likely to know about all the safety problems throughout the entire workplace than a knowledgeable employee representative.

Therefore, it is important for employees to select a concerned, well-trained representative and to make sure that everyone knows his/her identity to avoid confusion when the inspector arrives. This means that if there are different employee organizations in one location, employees should still agree on who is the employee representative for purposes of accompanying the inspector. It is also important to be sure there is an authorized representative for each shift and that back-up representatives are chosen in case the first representative is absent. Notifying management of the name(s) of employee representative(s) and back-up(s) will help prevent confusion during an inspection.

A problem can arise if the inspection covers restricted areas for which the employee representative lacks clearance. In this event, the employee representative should wait outside the restricted area and rejoin the inspector when he returns to unrestricted areas. Within the restricted area, the inspector can interview employees alone or have another employee representative who has the necessary clearance accompany him/her.

During the inspection, every employee has the right to discuss health and safety problems privately with the inspector as he/she passes through the workplace [6314(d)]. If an employee is concerned about an unsafe job condition, the employee should either inform the employee representative or tell the inspector about the problem. An employee's statements have more force if he/she can pinpoint the violation of a specific standard. But employees should also discuss generally unsafe conditions with the inspector.

Tagging

During the inspection, if the inspector finds a situation of extreme hazard, the inspector must prohibit entry to the affected area and/or use of the dangerous equipment. If this happens, the inspector will post a conspicuous notice to that effect. From then on, it is illegal to enter the dangerous area or use the equipment. It is also illegal for anyone to remove the posted notice or for the employer to ask an employee to enter the dangerous area or to use the unsafe equipment without permission from the Division [6325, 6326]. Such permission will be given only to repair or eliminate the dangerous condition.

Closing Conferences

After completion of the inspection, the inspector is obligated to have separate closing conferences with both the representative of the employer and the representative of employees. The conference with the employer representative will be held automatically whether the employer requests the meeting or not. However, the meeting with the representative of employees will not be held unless it is requested by the representative of employees. This opportunity for a closing conference should be utilized to insure that the inspector has noted all of the employee complaints during the tour through the place of employment. To accomplish this objective, the employee representative should ask for a short verbal review of all of the specific hazards and alleged violations found by the inspector. During this discussion, the employee representative should make written notes so that he can inform affected employees and so that he can check later to insure the hazards are actually abated.

WHAT HAPPENS AFTER THE INSPECTION

The Alternatives

After the inspector has been to the workplace, a number of alternatives exist, depending on the problems found. If the Division believes that the employer violated a safety or health standard, the Division must issue a citation with reasonable promptness [6317]. Additionally, the Division may order the plant or process immediately closed in the case of imminent danger to employees, or it may seek criminal penalties against the employer, depending upon the seriousness of the violation [6325, 6423]. Private employers may also be fined for violating safety or health standards or for failing to correct these violations within the period fixed by the Division [6427, 6428, 6429, 6430].

The Citation

A written citation will be used by the Division when they find a health or safety violation. It is a piece of paper informing the employer and employees of the specific violations and prescribing the time period fixed by the Division for correcting the violations (this time period is called the abatement period). The citation can be issued any time within six months, but it should be issued with reasonable promptness [6317]. The size of the fine in dollars and the length of the abatement period will vary according to the seriousness of the violations found and the ease or difficulty of correction. The important point to remember is the Division must issue a citation whenever a violation of a safety or health standard is discovered. The Division must conduct an informal review of any refusal by a CAL/OSHA inspector to issue a citation for an alleged violation and must furnish a written statement of the findings of this review upon the request of the complaining employee or his representative [6309].

Once a citation is issued, the employer must post it for employees to see for three days or until the violation is corrected, whichever time period is longer [6318]. The objective of a citation is to get the employer to eliminate the health and safety violations within a reasonable time. If the citation is disobeyed and the violation is not corrected within the prescribed abatement period, the employee should notify the Division in writing using a complaint form or a letter. For extreme hazard situations, telephone the Division directly. The Division should send someone out to reinspect. Here, too, employee actions are protected against retaliation [6309, 6310].

Employers and/or employees can appeal to the CAL/OSHA Appeals Board within fifteen days of the citation if they feel that the abatement period is wrong or that the citation otherwise failed to deal properly with health and safety problems [6601, 6602]. The affected employees have a right to participate as parties in an appeal hearing, regardless of whether the employees or the employer filed the appeal [6602, 6603]. Participation in such hearings is protected by the anti-retaliation provisions of the act [6310].

After the Board gives its decision in the appeal, any affected person can petition for reconsideration of that decision if the petition is within 30 days of the Appeals Board decision [6614].

INFORMATION PROVIDED TO THE PERSON WHO COMPLAINS

The Division is charged by law with keeping accurate records of all complaints, verbal or written [6309]. This section of the law also provides that the complainant shall be informed of any action taken in regard to the complaint and the reasons for such actions.

If you complain to the Division about an unsafe or unhealthy work situation, you should receive a written reply as to the action taken (or not taken) by the Division. If you do not hear from the Division in writing in a reasonable length of time after sending in a complaint, telephone the nearest Division Office and ask why you have not been kept informed. If, after this phone call, you still do not receive a reply, notify Federal OSHA as described in this Booklet under the section, "What if the State Program Fails to Act." Of course, if the problem involves extreme hazard, don't wait; telephone the Division immediately. If the Division does not respond, call Federal OSHA at (415) 556-0536 or (213) 432-3434.

PROTECTION OF THE EMPLOYEE AGAINST RETALIATION

Protection Provided by CAL/OSHA

Fear of employer reprisal can deter employees from exercising their rights to have a safe workplace. Therefore the California Occupational Health and Safety Act has a special section intended to protect employees against job loss or financial penalty who exercise their rights under all other sections of the law [6309, 6310, 6311, 6312]. To the extent that laws can protect, the Act forbids employers from firing or otherwise discriminating against any employee for sending complaints to

the Division or refusing to work in violation of safety orders [6310, 6311]. If the employer does not respect these rights, the employee is entitled to reinstatement and reimbursement for lost wages and work benefits caused by the employer. If an employee is fired or discriminated against for pursuing his/her rights under the California Act, he/she should notify his/her employer of intention to file a claim within 10 days of the alleged discriminatory action and write a letter to the Labor Commissioner, Division of Labor Law Enforcement, California Department of Industrial Relations, 455 Golden Gate Avenue, San Francisco, California 94102. (A statewide list of Labor Commissioner's branch offices appears in the Appendix.) The letter should describe the problem and should be mailed within 30 days of the alleged discriminatory action. Within 30 days of receiving your complaint, the Division of Labor Law Enforcement must review the facts of your case, notify you and your employer of its findings, and where necessary, initiate appropriate court action to enforce its decision [6312].

Protection Provided by Unions

Unions have additional channels to help prevent retaliation against employees. For instance, if you are covered by a union contract that bars employee dismissal except for "just cause," the union can take action to protect your rights to complain against hazardous working conditions or to refuse to work in violation of CAL/OSHA standards. Generally, the union's course of action will involve the use of grievance and arbitration procedures provided in the labor-management agreement. And under CAL/OSHA, an employer who refuses to abide by a grievance or arbitration decision ordering back pay or other relief for employer retaliation could be convicted of a misdemeanor [6309]. Additional protection in connection with union activity is provided by the National Labor Relations Act in Sections 8(a)(1) and 8(a)(3). Moreover, refusal to work because of abnormally dangerous conditions cannot be deemed an illegal strike under the Labor-Management Relations Act Section 502.

Note that going through arbitration and/or filing a complaint under the sections of the National Labor Relations Act mentioned above will take much more time than the 30 days permitted by CAL/OSHA for complaints to the Labor Commissioner. Therefore, if you use the union-related procedure, you may also wish to simultaneously file a complaint with the Labor Commissioner in order to meet those deadlines and to preserve your access to the CAL/OSHA protection provided by the Labor Commissioner's Office. The union can also help you file this complaint with the Labor Commissioner.

Remember that the anti-retaliation sections of the laws mentioned here should be used with good judgment and caution as they have not been thoroughly tested in the courts.

Another form of protection of the individual employee against retaliation provided by unions and other employee groups is that these groups can file CAL/OSHA complaints [6309]. By asking a union or employee group representative to file a health or safety complaint for you, your name can be completely left out of the CAL/OSHA complaint process. In this way the chances of misunderstanding between you and your employer can be almost totally avoided.

WHAT IF THE STATE PROGRAM FAILS TO ACT

The Federal Occupational Safety and Health Act of 1970 (PL 91-596) placed all authority for safety and health in places of employment in the U. S. Government. But under this Act, states such as California, were delegated this authority over workplaces in return for agreeing to carry out an occupational safety and health program which conformed with minimum federal guidelines.

If in your opinion the state program fails to measure up to standard by failing to respond to your complaint, failing to issue citations for known violations, failing to enforce health and safety standards, failing to follow procedures prescribed by CAL/OSHA, or failing to protect your rights against discrimination, promptly notify the Federal OSHA Office. Federal OSHA has prepared special forms for this purpose (see Appendix) and asks that all employees assist them in supervising state programs by sending in complaint forms or letters of complaint whenever deficiencies in the State Programs are noted. These forms (termed CASPA Forms) may be obtained from the United States Department of Labor, Occupational Health and Safety Administration, 450 Golden Gate Avenue, Box 36017, San Francisco, California 94102. If you cannot obtain a complaint form, simply write a letter stating the problem to the above address. Begin your letter by saying, "This is a complaint against State OSHA program administration," or more simply, "This is a CASPA." The right to make a CASPA complaint and other employee rights appear in both Spanish and English on all CAL/OSHA information posters. These posters must be prominently posted in all places of employment in California [6328].

YOUR RESPONSIBILITIES AS AN EMPLOYEE

The law charges you, as an employee, with certain responsibilities for your own health and that of your fellow employees [6325, 6326]. These responsibilities are:

a) You must not deface or remove notices posted by the Division to prohibit use of an unsafe machine or to prohibit entry to an unsafe area [6325].

b) You must obey notices prohibiting the use of unsafe equipment or entry to unsafe areas which are posted by the Division. Failure to obey such a notice or to deface, destroy or remove it without permission from the Division is a misdemeanor punishable by a fine or up to a year in the county jail [6326].

c) You must not remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any place of employment [6406(a)].

d) You must not interfere with the use of any item, mentioned in (c) above, by any other person [6406(b)].

e) You must not interfere with the use of any method or process adopted for the protection of any employee including yourself [6406(c)].

f) You must not fail or neglect to do everything reasonably necessary to protect the life, safety and health of employees [6406(d)].

g) You must comply with all occupational safety and health standards, rules, regulations and orders which are applicable to your actions and conduct on the job [6407].

THE EMPLOYER'S DUTY TO PROVIDE INFORMATION TO YOU

To fulfill their duty of furnishing a safe and healthful workplace, all employers covered by the Act are required to provide certain information to their employees. The information you, the employees, are entitled to includes:

a) Information regarding protections and obligations of employees under the Occupational Safety and Health Act [6328, 6408(a)]. This information must be posted in the workplace in English and in Spanish.

b) The posting of citations at or near the place of the violation [6408(b)].

c) The opportunity to observe monitoring or measurement of employee exposure to toxic chemicals or harmful physical agents [142.3, 6408(c)].

d) Access to accurate records of employee exposure to potentially toxic materials or harmful physical agents [6408(d)].

e) Notification to any employee who has been or is exposed to excessive (measured against the published standards) toxic materials or harmful physical agents, and notification to that employee of the corrective action being taken [6408(e)].

f) Posting of labels or other forms of warning to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms, appropriate emergency treatment, and proper precautions [142.3(b)].

g) Results of any medical examinations or tests made at the employer's expense in connection with occupational health and/or safety [142.3(c)].

If an employer is not giving you or your authorized representative access to this information, file a written complaint to the Division.

VARIANCES

An employer can request an order for a variance from a health and/or safety standard. The variance means that a specific standard does not apply to that employer, and cannot be enforced against him/her. The variance should provide for equal or better protection than the original standard. A variance may in fact reduce the level of worker protection if all of the facts are not considered before it is granted. Therefore, employees and their representatives should be aware of and participate in variance proceedings.

Temporary Variances (Granted by the Division of Industrial Safety)

An employer who establishes that he/she cannot comply with a standard by its effective date, and who shows the Division that all available steps to protect the employees against the hazard covered by the standard are being taken, and who offers a plan to comply with the standard as quickly as practicable may be granted a temporary variance [6450, 6451]. A variance may also be granted to participate in a Division-approved experiment [6452].

For any temporary variance request, the employer must certify to the Division that he/she has informed the employees of the application for the variance by giving the employees' authorized representative a copy of it and making it available to all employees [6451(e)]. This information to employees must also tell them of their right to petition the Division for a hearing on the variance [6451(e)].

If an employee or employee organization opposes the variance, they should immediately write to the Division and request a hearing on the issue [6451(e), 6455]. The hearings must give any affected person the opportunity to submit facts or arguments [6453]. The hearing can be informal, and may only involve a letter in which employees set forth their reasons for opposing the variance [6453].

Once the decision on the variance has been made, an affected person, including the employer, can appeal [6455]. The appeal is not to the Division of Industrial Safety but to the Occupational Safety and Health Standards Board. If you wish to

appeal a Board decision, you must file within 15 working days of the employer's receipt of the notice granting or denying the variance [6455]. The Standards Board decision on a given appeal must be in writing. This decision is final, except that it may be reviewed by a court [6457].

If an employer requests an interim order for a temporary variance the Division may issue it pending a hearing on the application for a temporary variance. This depends on the employer's showing that the place of employment will be safe for employees in this interim time. If you feel it is not safe, contact the Division and urge them to rescind this interim order.

Once a temporary order approving a variance comes down, it can only be effective for as long as the employer needs it in order to comply with an official standard-- and in any event, no longer than one year. A temporary variance order can be renewed twice, each for additional 180-day periods [6450(b)].

Permanent Variances (Granted by the Occupational Safety and Health Standards Board)

Your employer may also request a permanent variance from a health and/or safety standard. To do this, the employer must present an alternate program, method, practice, means, device or process to the Board which will provide employee safety equal or superior to the level set by the standard [143(a)]. The employer must show this by a preponderance of the evidence. The Board can also grant a permanent variance when it is necessary for an experimental program aimed at improving health and safety for workers [143(c)].

The Board will conduct hearings on a permanent variance request after employees have been notified and given a chance to appear [143.1]. The Board's decision is final, except that it can be reviewed by a court [143.1]. Moreover, an employer or the employees can apply to the Board for a modification or revocation of the permanent variance; the Division or Board can also revoke or modify it on their own motion [143(d)].

CONSTRUCTION PERMIT REQUIREMENTS

For three types of hazardous work, all private employers, except public utilities, are required to obtain a permit from the Division before operations begin [6500]. These are:

a) Construction of trenches or excavations which are 5 feet or deeper and into which a person is required to descend.

b) The construction of any building, structure, falsework, or scaffolding more than 3 stories high.

c) The demolition of any building, structure, falsework, or scaffolding more than 3 stories high.

A copy of the permit must be posted for the information of employees [6504].

The Division may require a safety conference prior to the start of actual work [6502]. This conference must include representatives of the owner or contracting agency, the contractor, the employer, employees and employee representatives. The employer's safety program and the means and practices he intends to use in providing a safe place of employment must be discussed in the conference [6503].

The Division may revoke this permit for good cause at any time [6505].

SAFETY AND HEALTH RESEARCH

NIOSH

The United States Congress, in passing the Occupational Safety and Health Act of 1970, recognized that continuing research on the harmful effects of chemicals, industrial processes and all kinds of jobs would be required in order to establish new standards and to protect working people from new hazards. To carry out this research work throughout the United States, Congress created the National Institute for Occupational Safety and Health, better known as NIOSH. This agency does not carry out enforcement, but it is authorized to enter any place of employment to carry out health hazard evaluations and other work relative to determining whether any chemical substance or physical agent such as heat or microwaves is harmful to employees.

NIOSH has organized its services as follows:

1. Hazard evaluations at the worksite. Upon request, NIOSH scientists will perform complete evaluations of working conditions by analyzing chemical samples measuring physical agents and examining the health of workers. Part of this service includes the development of non-hazardous work practices and processes for hazard control.

2. Technical information services. NIOSH maintains a technical information center. They will provide written answers to questions from employees, unions, and employers on safety or health hazards, such as toxicity of particular chemicals, use of respiratory protective equipment, methods for chemical analyses, etc.

3. Accident prevention services. Direct technical assistance is available for controlling on-the-job injuries resulting from accidents.

4. Industrial hygiene services. These services include the identification and evaluation of special health-related problems in the workplace and recommendations for control measures.

5. Medical services. NIOSH will assist in solving occupational medical and nursing problems. This includes determining medical and nursing needs for specific places of employment.

You can initiate research along the lines described above in your place of employment by filling out the NIOSH "Request for Health Hazard Evaluation" shown in the Appendix of this Booklet. Copies of this form may be obtained from: NIOSH, United States DHEW Region IX, 50 Fulton Street, Room 254, Federal Office Building, San Francisco, California 94102, Telephone: (415) 556-3781.

APPENDIX

APPENDIX A

OFFICES OF THE DIVISION OF INDUSTRIAL SAFETY

Main Offices

SAN FRANCISCO	455 Golden Gate Ave.	94102	415-557-1946
Los Angeles	3460 Wilshire Blvd.	90010	213-381-1332

Regional Offices

Fresno	2550 Mariposa St.	93721	209-488-5302
Los Angeles	3460 Wilshire Blvd.	90010	213-381-5695
Los Angeles (North)	8155 Van Nuys Blvd.	91402	213-782-1800
Sacramento	2422 Arden Way	95825	916-445-5818
San Diego	1309 State St.	92101	714-236-7325
San Francisco	1540 Market St.	94102	415-557-1677

District Offices

Bakersfield	225 Chester Ave.	93301	805-324-6437
Concord	1070 Concord Ave.	94520	415-676-5333
El Monte	3415 Fletcher Ave.	91731	213-572-6960
Long Beach	230 E. Fourth St.	90802	213-432-8443
Los Angeles	3460 Wilshire Blvd.	90010	213-381-3861
Modesto	1800 Coffee Rd.	95355	209-529-7751
Oakland	1111 Jackson St.	94607	415-464-0660
Panorama City	8155 Van Nuys Blvd.	91402	213-782-1800
Redding	1421 Court St.	96001	916-246-1621
Salinas	21 W. Laurel Dr.	93901	408-449-7235
San Bernardino	303 W. Third St.	92401	714-383-4321
San Jose	888 N. First St.	95112	408-277-1260
San Mateo	2555 Flores St.	94403	415-573-1718
Santa Ana	28 Civic Center Plaza	92701	714-558-4141
Santa Barbara	5276 Hollister Ave.	93111	805-964-3554
Santa Rosa	750 Mendocino Ave.	95401	707-542-6802
Stockton	31 E. Channel St.	95202	209-948-7762
Vernon	2833 Leonis Blvd.	90058	213-589-5848

Field Offices

Chico	555 Rio Linda Ave.	95926	916-345-7131
Eureka	619 Second St.	95501	707-442-5748
Ukiah	264 E. Smith St.	95482	707-462-8850
Ventura	3418 Loma Vista Rd.	93003	805-642-1475

NOTE: The offices listed on this page will handle safety and health complaints.

APPENDIX B

OFFICES OF THE STATE LABOR COMMISSIONER

(Division of Labor Law Enforcement)

SAN FRANCISCO - Headquarters Office	415-557-3827
455 Golden Gate Ave., P. O. Box 603	415-557-3200
San Francisco, CA 94101	

District Offices

Bakersfield - 225 Chester Avenue (93301)	805-327-4827
Burlingame - 100 El Camino (94010)	415-342-7235
El Centro - 588 Broadway (92243)	714-353-0585
Eureka - 619 Second Street (95501)	707-442-5748
Fresno - 2550 Mariposa Street, Room 4092 (93721)	209-488-5144
Inglewood - 520 N. La Brea Avenue (90302)	213-674-6522
Long Beach - 230 E. Fourth Street, Room 2007 (90812)	213-432-8978
Los Angeles - 107 S. Broadway, Room 5015 (90012)	213-620-2486 213-620-2100
Oakland - 1111 Jackson Street, Room 3062 (94607)	415-464-1353
Pomona - 436 West Fourth Street (91766)	714-623-4306
Redding - 2115 Akard Avenue (96001)	916-246-0430
Sacramento - 714 P Street, Room 1376 (95814)	916-445-8478
Salinas - 21 W. Laurel Drive, Suite 1 (93901)	408-449-5467
San Bernardino - 303 West Third Street (92401)	714-383-4339 714-383-4333
San Diego - 1350 Front Street, Room 3064 (92101)	714-236-7334
San Jose - 888 North First Street (95112)	408-277-1265
Santa Ana - 1624 West 19th Street (92706)	714-547-3055
Santa Barbara - 411 East Canon Perdido Street (93101)	805-963-1438
Stockton - 31 East Channel Street (95202)	209-948-7770
Vallejo - 856 Tuolumme Street (94594)	707-644-7755
Van Nuys - 6931 Van Nuys Boulevard (91405)	213-782-3733

NOTE: The offices listed on this page will handle cases of employer retaliation against employees who make safety or health complaints.

APPENDIX C

EXAMPLE - LETTER OF COMPLAINT

Chief
California Division of Industrial Safety
455 Golden Gate Avenue
San Francisco, CA 94102

Dear Sir or Madam:

This letter is a formal request for an inspection with regard to safety and health hazards at the Blank City Municipal Shops located at 000 Industrial Drive, Blank City, CA.

Problems are as follows:

1. Unguarded belts on machinery.
2. Frayed electrical wiring on portable tools.
3. Poor housekeeping - fire hazard.
4. High noise levels on woodworking machinery.
5. Paint spray mist in paint shop.
6. What is the hazard from the solvent used to strip paint off of old desks? Men also use this to wash their hands.
7. Air is full of dust in the sandblasting department.
8. People who work in the auto body shop seem to have lots of skin rashes on their hands and legs.
9. Food from the vending machine in the locker room is often spoiled.
10. There are no drinking fountains.
11. Chemical odors from the duplicating machines worry the operators as to possible effects on their health.

Additional problems will be brought to the attention of your field representative during the walk-around inspection. The following are employee representatives who will be available to participate in the walk-around inspection:

Day shift - name, location, phone number
Afternoon shift - name, location, phone number
Night shift - name, location, phone number
(Include the above list of names if appropriate)

In accordance with CAL/OSHA, I wish to receive copies of any notices, citations or findings resulting from the inspection and to be kept fully informed of your progress.

I do not want my name revealed to the employer. (This last sentence may be left out if you are not concerned about the employer learning your identity or if you are employee representative.)

Sincerely,

Sign your name here
Insert mailing address here

NOTE: Keep a carbon copy for your files.

APPENDIX D

U.S. DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Form Approved
OMB No. 044R1449

For Official Use Only		
Area	Date Received	Time
Region	Received By	

COMPLAINT

This form is provided for the assistance of any complainant and is not intended to constitute the exclusive means by which a complaint may be registered with the U.S. Department of Labor.

The undersigned (*check one*)

☐ Employee ☐ Representative of employees ☐ Other (*specify*) _____

believes that a violation at the following place of employment of an occupational safety or health standard exists which is a job safety or health hazard.

Does this hazard(s) immediately threaten death or serious physical harm? ☐ Yes ☐ No

Employer's Name _____

Address (Street _____ Telephone _____
(City _____ State _____ Zip Code _____

1. Kind of business _____

2. Specify the particular building or worksite where the alleged violation is located, including address. _____

3. Specify the name and phone number of employer's agent(s) in charge. _____

4. Describe briefly the hazard which exists there including the approximate number of employees exposed to or threatened by such hazard. _____

(Continue on reverse side if necessary)

Sec. 8(f)(1) of the Williams-Steiger Occupational Safety and Health Act, 29 U.S.C. 651, provides as follows: Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify the employees or representative of the employees in writing of such determination.

(Continued on reverse side)

Form OSHA-7
Sept. 1971

5. List by number and/or name the particular standard (or standards) issued by the Department of Labor which you claim has been violated, if known.

6. (a) To your knowledge has this violation been considered previously by any Government agency? _____

(b) If so, please state the name of the agency _____

(c) and, the approximate date it was so considered. _____

7. (a) Is this complaint, or a complaint alleging a similar violation, being filed with any other Government agency? _____

(b) If so, give the name and address of each. _____

8. (a) To your knowledge, has this violation been the subject of any union/management grievance or have you (or anyone you know) otherwise called it to the attention of, or discussed it with, the employer or any representative thereof? _____

(b) If so, please give the results thereof, including any efforts by management to correct the violation. _____

9. Please indicate your desire:

☐ I do not want my name revealed to the employer.

☐ My name may be revealed to the employer.

Continue Item 4 here, if additional space is needed.

Signature _____ Date _____

Typed or Printed Name _____

If you are a representative of employees,
state the name of your organization _____

Address (Street _____ Telephone _____
(_____
(City _____ State _____ Zip Code _____

APPENDIX E

CALIFORNIA SAFETY ORDERS

PRICE LIST*

	<u>Price</u> (add sales tax)
Aerial Passenger Tramway Safety Orders75
Boiler and Fired Pressure Vessel Safety Orders75
California Shaft Bell Signals (on oil cloth)	1.50
Compressed Air Safety Orders75
Construction Safety Orders	1.45
Elevator Safety Orders	2.00
General Industry Safety Orders	1.62
High Voltage Electrical Safety Orders	1.25
Logging and Sawmill Safety Orders	2.00
Mine Safety Orders	1.00
Petroleum Safety Orders, Drilling and Production . .	1.50
Petroleum Safety Orders, Refining, Transportation and Handling	1.50
Ship and Boat Building Safety Orders75
Tunnel Safety Orders	1.40
Unfired Pressure Vessel Safety Orders	1.25
Window Cleaning Safety Orders	1.00
All the above Safety Orders (Title 8, Part 1, Chap. 4)	16.00
Amendment Service for Title 8, Part 1, Chap. 4 . . .	10.00/year; no sales tax

The safety orders listed above may be ordered from the State Office of Procurement, Document Section, P. O. Box 20191, Sacramento, CA 95820.

Make checks payable to STATE OF CALIFORNIA.

* Source: California Safety News, Vol. 58, No. 1, Spring 1974, Page 14.

APPENDIX F

COMPLAINT ABOUT STATE 18(B) PROGRAM ADMINISTRATION

1. This form is provided to assist you in the filing of your complaint about the administration of the State's Occupational Safety and Health Program. Your complaint, however, must be based on facts directly related to the following:

1. Action(s) which took place at a specific time and place.
2. Action(s) which you believe indicate inadequate administration of the State's Occupational Safety and Health Program.

2. Date of Incident

3. State

4. County

5. City

6. Street Address Where Incident Occurred

7. Name of Employer or Name of Place Where Incident Occurred, If Applicable

8. Name(s) and Occupation(s) of Persons Involved in Incident, If Applicable

9. Describe the Incident which caused your complaint.

10. Name(s) of Person(s) Submitting Complaint (will be withheld upon request)

11. Telephone where you can be reached for information
Area Code: No. Ext.

12. Date This Form Completed

13. Address No., Street, City and State, Zip Code

14. ☐ Do not Reveal My Name ☐ You May Reveal My Name During Investigation

15. The State Agency ☐ Has ☐ Has not been Furnished this Data

16. Signature of Person Filing Report

For complaints against the states of Arizona, California, Nevada, Hawaii, Guam, Samoa, or Trust Territories mail this form to: 450 Golden Gate Avenue, U.S. Department of Labor, OSHA, Box 30617, San Francisco, California 94102.

APPENDIX G

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

REQUEST FOR HEALTH HAZARD EVALUATION

This form is provided to assist in registering a request for a health hazard evaluation with the U.S. Department of Health, Education, and Welfare as provided in Section 20(a)(6) of the Occupational Safety and Health Act of 1970 and 42 CFR Part 85. (See Statement of Authority on Reverse Side).

Name of Establishment Where Alleged Hazard(s) Exist _____

Company { Street _____ Telephone _____
Address { City _____ State _____ Zip Code _____

1. Principal Company Activity _____

(manufacturing, construction, transportation, services, etc.)

2. Specify the particular building or worksite where the alleged hazard is located, including address _____

3. Specify the name and phone number of employer's agent(s) in charge. _____

4. Describe briefly the hazard(s) which exists by completing the following information:

Identification of Hazard or Toxic Substance(s) _____

Trade Name (If Applicable) _____ Chemical Name _____

Manufacturer _____ Does the material have a warning label? _____ Yes _____ No

If Yes, attach copy of label or a copy of the information contained on the label.

Physical Form: Dust ☐ Gas ☐ Liquid ☐ Mist ☐ Other ☐

Type of Exposure? Breathing ☐ Swallowing ☐ Skin Contact ☐

Number of People Exposed _____ Length of Exposure (Hours/Day) _____

Occupations of Exposed Employees _____

5. Using the space below describe further the nature of the conditions or circumstances which prompted this request and other relevant aspects which you may consider important, such as the nature of the illness or symptoms of exposure, the concern for the potentially toxic effects of a new chemical substance introduced into the workplace, etc.

6. (a) To your knowledge has this hazard been considered previously by any Government agency? _____
(b) If so, give the name and address of each.

(c) and, the approximate date it was so considered. _____

7. (a) Is this request, or a request alleging a similar hazard, being filed with any other Government agency? _____ (b) If so, give the name and address of each.

The undersigned (check one)

- ☐ Employer
☐ Authorized Representative of employees*

i ii iii (circle one)

believes that a substance (or substances) normally found at the following place of employment may have potentially toxic effects in the concentration used or found.

Signature _____ Date _____
Typed or Printed Name _____ Telephone: Home - _____
Address { Street _____ Business - _____
City _____ State _____ Zip Code _____

If you are a representative of employees, state the name and address of your organization.

Please indicate your desire:

- ☐ I do not want my name revealed to the employer.
☐ My name may be revealed to the employer.

Authority:

Section 20(a)(6) of the Occupational Safety and Health Act, (29 U. S. C. 669(a)(6)) provides as follows: The Secretary of Health, Education, and Welfare shall. . .determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health, Education, and Welfare determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health, Education, and Welfare shall immediately submit such determination to the Secretary of Labor, together with all pertinent criteria.

"Authorized representative of employees" means any person or organization meeting the conditions specified in 42 CFR Part 85.3 (b) (4) (i), (ii) or (iii):

- (i) - that he is an authorized representative of, or an officer of the organization representing, the employees for purposes of collective bargaining; or
(ii) - that he is an employee of the employer and is authorized by two or more employees employed in the workplace where the substance is normally found, to represent them for purposes of the Act. Each such authorization shall be in writing and included in the request; or
(iii) - that he is one of three or less employees employed in the workplace where the substance is normally found.

Send the completed form to:

National Institute for Occupational Safety and Health
Hazard Evaluation Services Branch
U.S. Department of Health, Education, and Welfare
Cincinnati, Ohio 45202