

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1236

Session of
1983

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STEWART, McHALE, WOZNIAC, LAUGHLIN, MICHLOVIC, SEVENTY AND
BOOK, JUNE 21, 1983

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 14, 1984

AN ACT

1 ~~Regulating toxic and hazardous substances; requiring the posting~~ <—
2 ~~of the identity of these substances by employers and the~~
3 ~~labeling of toxic and hazardous substances; requiring~~
4 ~~material safety data on every toxic or hazardous substance to~~
5 ~~be given to the Department of Health and to employees;~~
6 ~~requiring employers to operate educational programs relating~~
7 ~~to toxic substances; providing for further duties of the~~
8 ~~Department of Health, for complaint procedures, for~~
9 ~~investigations, for compliance orders and the enforcement~~
10 ~~thereof; and providing penalties.~~

11 ~~It is hereby declared that there exists within the~~
12 ~~Commonwealth of Pennsylvania a potential danger to employees,~~
13 ~~their families and the general public because of exposure to~~
14 ~~hazardous and toxic substances encountered because of the~~
15 ~~introduction of these hazardous and toxic substances into the~~
16 ~~workplace and into the general environment. Employees may~~
17 ~~encounter exposure to these hazardous and toxic substances~~
18 ~~during the course and scope of their employment and the general~~
19 ~~public may encounter exposure to these hazardous and toxic~~

1 ~~substances due to their transportation, use and subsequent~~
2 ~~disposal within the community. Serious health problems may be~~
3 ~~caused to individuals because of this exposure to such hazardous~~
4 ~~and toxic substances and because of the nature of these~~
5 ~~substances, these serious health problems may not become evident~~
6 ~~for many years after initial exposure.~~

7 ~~It is therefore declared to be the policy of the Commonwealth~~
8 ~~that any employer within the Commonwealth whose business~~
9 ~~requires the buying, selling, transportation, use or disposal of~~
10 ~~hazardous and toxic substances as defined herein, has a duty to~~
11 ~~inform his employees and the general public about the nature of~~
12 ~~the hazardous and toxic substances bought, sold, transported,~~
13 ~~used or disposed of during the course of his business and to~~
14 ~~give notice as to the known or suspected health hazards posed by~~
15 ~~the use of or exposure to these substances. Employees, their~~
16 ~~families and the general public have a right to know the type of~~
17 ~~hazardous and toxic substances they may be exposed to, the~~
18 ~~potential health hazards that exist because of exposure and the~~
19 ~~symptoms of toxicity experienced because of exposure.~~

20 ~~It is further declared that the employees themselves are~~
21 ~~frequently in the best position to be aware of the symptoms of~~
22 ~~toxicity, provided that the employees are aware of the nature of~~
23 ~~the substances they are working with and that employees have an~~
24 ~~inherent right to know about the known and suspected health~~
25 ~~hazards which may result from working with hazardous and toxic~~
26 ~~substances, so that they may make knowledgeable and reasoned~~
27 ~~decisions with respect to the continued personal costs of their~~
28 ~~employment and need for corrective action.~~

29 ~~It is further declared that, because of close or continuing~~
30 ~~contact with hazardous and toxic substances, the workplace often~~

~~provides an early warning mechanism for the rest of the environment and the general public. It is therefore the intent of this legislation to ensure that employees, their families and the general public be given current information concerning the nature of the hazardous and toxic substances with which they may come in contact and full information concerning the known and suspected health hazards of said hazardous and toxic substances.~~

~~TABLE OF CONTENTS~~

- ~~Section 1. Short title.~~
- ~~Section 2. Definitions.~~
- ~~Section 3. Notice.~~
- ~~Section 4. Materials.~~
- ~~Section 5. Material safety data.~~
- ~~Section 6. Labeling.~~
- ~~Section 7. Change in nature of substance.~~
- ~~Section 8. Subsequent information.~~
- ~~Section 9. Construction of act.~~
- ~~Section 10. Duplicate requests.~~
- ~~Section 11. Labeling by supplier.~~
- ~~Section 12. Protection of employees.~~
- ~~Section 13. Employer educational program.~~
- ~~Section 14. Powers and duties on the department.~~
- ~~Section 15. Health and exposure records.~~
- ~~Section 16. Outreach programs.~~
- ~~Section 17. Trade secrets.~~
- ~~Section 18. Risk to public health.~~
- ~~Section 19. List of substances within county.~~
- ~~Section 20. Complaints and investigations.~~
- ~~Section 21. Compliance order and penalties.~~
- ~~Section 22. Severability.~~

1 ~~Section 23. Effective date.~~

2 REQUIRING CHEMICAL IDENTIFICATION OF SUBSTANCES IN THE COMMUNITY <—
3 AND ON EMPLOYER PREMISES; REQUIRING THE POSTING OF THE
4 IDENTITY OF THESE SUBSTANCES BY EMPLOYERS AND THE LABELING OF
5 CHEMICALS; REQUIRING INFORMATION AND SAFETY DATA ON CHEMICALS
6 TO BE GIVEN TO THE DEPARTMENT OF HEALTH, MEMBERS OF THE
7 COMMUNITY, AND EMPLOYEES; REQUIRING EMPLOYERS TO OPERATE
8 EDUCATIONAL PROGRAMS RELATING TO HAZARDOUS SUBSTANCES;
9 PROVIDING FOR FURTHER DUTIES OF THE DEPARTMENT OF HEALTH, FOR
10 COMPLAINT PROCEDURES, FOR INVESTIGATIONS, FOR COMPLIANCE
11 ORDERS AND THE ENFORCEMENT THEREOF; AND PROVIDING PENALTIES.

12 IT IS HEREBY DECLARED THAT THERE EXISTS WITHIN THE
13 COMMONWEALTH OF PENNSYLVANIA A DANGER TO EMPLOYEES, THEIR
14 FAMILIES AND TO THE GENERAL PUBLIC BECAUSE OF EXPOSURE TO
15 CHEMICALS INTRODUCED INTO THE WORKPLACE AND INTO THE GENERAL
16 ENVIRONMENT. EMPLOYEES MAY ENCOUNTER EXPOSURE TO THESE
17 SUBSTANCES DURING THE COURSE AND SCOPE OF THEIR EMPLOYMENT AND
18 THE GENERAL PUBLIC MAY ENCOUNTER EXPOSURE DUE TO THE
19 TRANSPORTATION, USE AND SUBSEQUENT DISPOSAL WITHIN THE
20 COMMUNITY. SERIOUS HEALTH PROBLEMS MAY BE CAUSED TO INDIVIDUALS
21 BECAUSE OF THIS EXPOSURE; DUE TO THE NATURE OF THESE SUBSTANCES,
22 THESE HEALTH PROBLEMS MAY NOT BECOME EVIDENT UNTIL MANY YEARS
23 AFTER INITIAL EXPOSURE.

24 IT IS THEREFORE DECLARED TO BE THE POLICY OF THE COMMONWEALTH
25 THAT EMPLOYERS WITHIN THE COMMONWEALTH AND CHEMICAL SUPPLIERS
26 DOING BUSINESS WITHIN THE COMMONWEALTH HAVE A DUTY TO MAKE
27 AVAILABLE TO EMPLOYEES AND TO THE GENERAL PUBLIC THE IDENTITY OF
28 CHEMICALS USED IN THE WORKPLACE, AND TO MAKE INFORMATION
29 AVAILABLE AS TO THE KNOWN OR SUSPECTED HEALTH HAZARDS POSED BY
30 THE USE OF OR EXPOSURE TO HAZARDOUS SUBSTANCES. EMPLOYEES, THEIR
31 FAMILIES AND THE GENERAL PUBLIC HAVE A RIGHT TO KNOW THE
32 IDENTITY OF CHEMICALS THEY MAY BE EXPOSED TO, THE POTENTIAL
33 HEALTH HAZARDS THAT EXIST AND THE SYMPTOMS THAT MAY BE
34 EXPERIENCED BECAUSE OF EXPOSURE.

1 IT IS FURTHER DECLARED THAT EMPLOYEES AND THE GENERAL PUBLIC
2 THEMSELVES ARE FREQUENTLY IN THE BEST POSITION TO DISCOVER
3 SERIOUS HEALTH PROBLEMS, PROVIDED THAT THEY ARE AWARE OF THE
4 SCIENTIFIC NAME AND THE NATURE OF THE SUBSTANCES THEY ARE
5 EXPOSED TO. EMPLOYEES, THEIR FAMILIES AND THE GENERAL PUBLIC
6 HAVE AN INHERENT RIGHT TO KNOWN ABOUT THE KNOWN AND SUSPECTED
7 HEALTH HAZARDS WHICH MAY RESULT FROM EXPOSURE TO HAZARDOUS
8 SUBSTANCES, SO THAT THEY MAY MAKE KNOWLEDGEABLE AND REASONED
9 DECISIONS WITH RESPECT TO THE CONTINUED PERSONAL COSTS OF THEIR
10 EMPLOYMENT OR RESIDENCE AT A PARTICULAR PLACE, AND THE NEED FOR
11 CORRECTIVE ACTION.

12 IT IS FURTHER DECLARED THAT, BECAUSE OF CLOSE OR CONTINUING
13 CONTACT WITH HAZARDOUS SUBSTANCES, THE WORKPLACE OFTEN PROVIDES
14 AN EARLY WARNING MECHANISM FOR THE REST OF THE ENVIRONMENT AND
15 THE GENERAL PUBLIC. IT IS THEREFORE THE INTENT OF THIS
16 LEGISLATION TO ENSURE THAT EMPLOYEES, THEIR FAMILIES AND THE
17 GENERAL PUBLIC BE GIVEN CURRENT INFORMATION CONCERNING THE
18 NATURE OF THE HAZARDOUS SUBSTANCES WITH WHICH THEY MAY COME IN
19 CONTACT AND FULL INFORMATION CONCERNING THE KNOWN AND SUSPECTED
20 HEALTH HAZARDS OF THESE HAZARDOUS SUBSTANCES.

21 IT IS FURTHER DECLARED THAT AVAILABILITY OF DETAILED
22 INFORMATION CONCERNING THE IDENTITY AND NATURE OF CHEMICALS TO
23 LOCAL POLICE, FIRE AND HEALTH OFFICIALS WILL GREATLY AID SUCH
24 AUTHORITIES IN RESPONDING TO LOCAL EMERGENCIES SUCH AS CHEMICAL
25 FIRES, ACCIDENTAL SPILLS, INDUSTRIAL ACCIDENTS, AND OUTBREAKS OF
26 HEALTH PROBLEMS AMONG MEMBERS OF THE PUBLIC.

27 IT IS FURTHER DECLARED THAT THE SWIFT AND EFFECTIVE
28 ENFORCEMENT OF THE PROVISIONS OF THIS ACT IS VITAL TO INSURE
29 THAT THE HEALTH AND SAFETY OF EMPLOYEES AND MEMBERS OF THE
30 PUBLIC IS PROTECTED.

1 ~~have the meanings given to them in this section unless the~~
2 ~~context clearly indicates otherwise.~~

3 ~~"Chemical." Any element, chemical compound or mixture of~~
4 ~~elements or compounds, or both, except those chemicals which are~~
5 ~~goods, drugs, cosmetics or tobacco products intended for~~
6 ~~personal use or consumption.~~

7 ~~"Chemical name." The scientific designation of a chemical in~~
8 ~~accordance with the nomenclature system developed by the~~
9 ~~International Union of Pure and Applied Chemistry or the~~
10 ~~Chemical Abstracts Service rules of nomenclature.~~

11 ~~"Common name." Any designation or identification such as a~~
12 ~~code name or number or trade or brand name, used by the employer~~
13 ~~to identify a substance other than by its chemical name.~~

14 ~~"Container." A receptacle used to hold a liquid, solid or~~
15 ~~gaseous substance including, but not limited to, bottles,~~
16 ~~pipelines, bags, barrels, boxes, cans, cylinders, drums,~~
17 ~~cartons, vessels, vats and stationary or mobile storage tanks.~~
18 ~~The term does not include process containers.~~

19 ~~"Department." The Department of Health and any county health~~
20 ~~department designated by the secretary as having powers and~~
21 ~~duties under this act.~~

22 ~~"Employee." Any person currently or formerly employed except~~
23 ~~domestic workers or casual laborers employed at the employer's~~
24 ~~place of residence.~~

25 ~~"Employee representative." An individual or organization to~~
26 ~~whom an employee gives written authorization to exercise his or~~
27 ~~her rights to request information under this act. A recognized~~
28 ~~or certified collective bargaining agent shall be considered to~~
29 ~~be an employee representative without regard to written employee~~
30 ~~authorization.~~

~~"Employer." Any individual, partnership, corporation or association engaged in a business that has employees, including the State and its political subdivisions. The term shall not include a person who employs domestic workers or casual laborers at his residence.~~

~~"Hazardous substance." Any substance designated by the Federal Environmental Protection Agency (EPA) pursuant to sections 307 and 311 of the Federal Clean Water Act of 1977 (33 U.S.C. § 1251 et seq.) or as a hazardous air pollutant pursuant to section 112 of the Federal Clean Air Act (42 U.S.C. § 7412 which has known adverse human risks or listed as a human or animal carcinogen by the International Agency for Research on Cancer (IARC).~~

~~"Material safety data sheet." A form supplied by the department to each employer that buys, sells, transports, uses or disposes of hazardous or toxic substances in the course of his business, to be filled in by the employer.~~

~~"Secretary." The Secretary of Health.~~

~~"Toxic substance." Any substance which is listed in the latest printed edition of the National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances, including any amendments or supplements thereto, or has yielded positive evidence of acute or chronic health hazards in human, animal or other biological testing including, but not limited to, any nuclear or radioactive substance.~~

~~"Workplace." Any location away from home, permanent or temporary, where any employee performs any work related duty in the course of his employment.~~

~~Section 3. Notice.~~

~~(a) Posting requirement. Every employer shall post in every workplace in a location or locations where notice to employees are normally posted:~~

~~(1) A list of all hazardous or toxic substances found in the workplace.~~

~~(2) Notification to every employee or employee representative of their rights under this act, which includes the right to receive a copy of the material safety data sheet, as required in this act.~~

~~(b) Lists of substances. Upon offering employment to a prospective employee and on January 1 of each year, each employer shall furnish to each of his employees a list of all hazardous or toxic substances which he uses or produces in the manufacture of any item, product or material or which are used or produced for purposes of research, experimentation or treatment, and the dangers inherent in exposure to these substances.~~

~~Section 4. Materials.~~

~~All materials required to be furnished to an employee or employee representative shall be furnished at no cost to the employee or employee representative.~~

~~Section 5. Material safety data.~~

~~(a) Completion of form. Every employer shall, upon a form supplied by the department, fill out a material safety data sheet for each chemical, hazardous or toxic substance found in the workplace.~~

~~(b) Contents of form. The form shall include, but not be limited to:~~

~~(1) The trade name of the hazardous or toxic substance or mixture and its common name.~~

~~(2) The chemical name of the hazardous or toxic substance and any commonly used synonyms for the substance and for a mixture, the chemical name of the major components of the mixture and any commonly used synonyms for the components.~~

~~(3) A description of the use of the chemical, hazardous or toxic substance at the facility.~~

~~(4) The quantity of the chemical, hazardous or toxic substance produced at the facility.~~

~~(5) The quantity of the chemical, hazardous or toxic substance brought into the facility.~~

~~(6) The quantity of the chemical, hazardous or toxic substance consumed at the facility.~~

~~(7) The quantity of the chemical, hazardous or toxic substance shipped out of the facility as or in products.~~

~~(8) The maximum inventory of the chemical, hazardous or toxic substance stored at the facility, the method of storage, and the frequency and methods of transfer.~~

~~(9) The total stack or point source emissions of the chemical, hazardous or toxic substance.~~

~~(10) The total estimated fugitive or non point source emissions of the chemical, hazardous or toxic substance.~~

~~(11) The total discharge of the chemical, hazardous or toxic substance into the surface or groundwater, the treatment methods, and the raw wastewater volume and loadings.~~

~~(12) The total discharge of the chemical, hazardous or toxic substance into publicly owned treatment works.~~

~~(13) The quantity, and methods of disposal, of any wastes containing a chemical, hazardous or toxic substance,~~

~~the method of on site storage of these wastes, the location or locations of the final disposal site for these wastes and the identity of the hauler of the wastes.~~

~~(14) The hazardous or toxic properties of the chemical, hazardous or toxic substance or mixture and the hazards associated with the use of or exposure to the chemical, hazardous or toxic substance.~~

~~(15) The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, melting point, physical state, color and odorous properties of the chemical, hazardous or toxic substance.~~

~~(16) The flash point, auto ignition temperature, percentage by volume of flammable limits, the recommended fire extinguishing media, any special firefighting procedure and any other unusual fire or explosion hazards of the chemical, hazardous or toxic substance.~~

~~(17) The permissible exposure level, threshold limit value or other established limit value of the chemical, hazardous or toxic substance, the consequences of overexposure and emergency first aid procedures, including a telephone number to be called in an emergency.~~

~~(18) The stability of the chemical, hazardous or toxic substance and the conditions and materials which are incompatible with the substance and with which contact must be avoided.~~

~~(19) Measures to be taken in the event of a release of a hazardous or toxic substance into the workplace or into the general environment.~~

~~(20) Recommended waste disposal method for the chemical, hazardous or toxic substance.~~

~~(21) Personal protective equipment to be worn or used when handling or otherwise coming in contact with the chemical, hazardous or toxic substance and any special precautions to be taken in the handling of the chemical, hazardous or toxic substance.~~

~~(c) Submission to department. Every employer shall submit to the department the material safety data sheet for each chemical, hazardous or toxic substance found in the workplace and shall keep one copy of the material safety data sheet on file at his principal place of business.~~

~~(d) Information. It shall be the responsibility of the employer to obtain information relating to hazardous or toxic substances from the manufacturer, the Department of Health, the Department of Environmental Resources, the Federal Environmental Protection Agency's Chemical Substances Information Network and the Health Hazard Evaluation Program of the National Institute of Occupational Safety and Health.~~

~~(e) Copy of data available to employees. Upon the written request of an employee or employee representative, the employer shall furnish a copy of the material safety data sheet to said employee or employee representative, along with any other information gathered pursuant to subsection (d), within five working days of receipt of written request. If the information is not provided, the employee shall not be required to work with the toxic substance until the information is made available.~~

~~Section 6. Labeling.~~

~~(a) Labeling of container, etc. The employer shall label with the chemical name each container of a toxic substance used in the workplace. The employer is not required to label containers of one gallon or less into which toxic substances are~~

~~transferred by the employee from labeled containers and which are intended only for the immediate use by the employee who performs the transfer. Prior to the container being sold, distributed or otherwise leaving the employer's workplace, the employer shall label each container of a toxic substance with the chemical name.~~

~~(b) Piping. The toxic substance content of a piping system shall be identified by labels applied on the pipe body at all valves.~~

~~(c) Display of label. The employer shall ensure that each label required by this section is prominently affixed to the container or the piping system and displayed in such a manner that employees can easily identify the substances that are present.~~

~~Section 7. Change in nature of substance.~~

~~If a substance was not within the definition of a toxic substance at the time it was present in a workplace, but subsequently is within the definition, an employer shall provide the information required in this act upon request.~~

~~Section 8. Subsequent information.~~

~~(a) Material on data sheets. If an employer receives new information concerning those subjects listed in the material safety data sheet, from a manufacturer, importer, producer, formulator or a State or Federal agency, the employer shall make the new information available to employees and if requested, their representatives, upon receipt of the information.~~

~~(b) Toxic and hazardous substances generally. Whenever an employer receives new information regarding toxic and hazardous substances, the employer shall make such information available to employees and, if so requested their representatives upon~~

1 ~~receipt of same.~~

2 ~~Section 9.— Construction of act.~~

3 ~~The provision of information to an employee shall not in any~~
4 ~~way affect the liability of an employer with regard to the~~
5 ~~health and safety of an employee or other persons exposed to~~
6 ~~toxic substances, nor shall it affect the employer's~~
7 ~~responsibility to take any action to prevent the occurrence of~~
8 ~~occupational disease as required under any other provision of~~
9 ~~law. The provision of information to an employee shall not~~
10 ~~affect any other duty or responsibility of a manufacturer,~~
11 ~~producer or formulator to warn ultimate users of a toxic~~
12 ~~substance under any other provisions of law.~~

13 ~~Section 10.— Duplicate requests.~~

14 ~~An employer is not required to provide information regarding~~
15 ~~a toxic substance if the employee or employee representative~~
16 ~~making the request has requested and received the same~~
17 ~~information about the toxic substance within the preceding 12~~
18 ~~months, unless the employee's job assignment has changed or~~
19 ~~there is new information available concerning any of the~~
20 ~~subjects about which information is required to be provided.~~

21 ~~Section 11.— Labeling by supplier.~~

22 ~~Any person who supplies chemical, hazardous or toxic~~
23 ~~substances to an employer shall label all such substances by the~~
24 ~~generic or basic chemical name only and shall provide safe~~
25 ~~handling procedures and all information required by the employer~~
26 ~~to fulfill the employers reporting requirements regarding the~~
27 ~~material safety data sheet for all such substances supplied.~~

28 ~~Section 12.— Protection of employees.~~

29 ~~(a) General rule.— No employer shall discharge, or cause to~~
30 ~~be discharged, or otherwise discipline or in any manner~~

1 ~~discriminate against an employee because the employee has filed~~
2 ~~a complaint, assisted an inspector of the department, who may~~
3 ~~make or is making an inspection under section 20, or has~~
4 ~~instituted or caused to be instituted any proceeding under or~~
5 ~~related to this act or has testified or is about to testify in~~
6 ~~any such proceeding or because of the exercise of any right~~
7 ~~afforded pursuant to the provisions of this act on behalf of the~~
8 ~~employer or on behalf of others, nor shall pay, position or~~
9 ~~seniority or other benefits be lost for exercise of any right~~
10 ~~provided by this act.~~

11 ~~(b) Complaint procedure. Any employee who believes that he~~
12 ~~has been discharged, disciplined or otherwise discriminated~~
13 ~~against by any person in violation of this section may, within~~
14 ~~30 days after such violation occurs or 30 days after the~~
15 ~~employee first obtains knowledge that a violation did occur,~~
16 ~~file a complaint with the department alleging the violation.~~
17 ~~Within 30 days of receipt of the complaint, the department shall~~
18 ~~cause such investigation to be made as appropriate. If the~~
19 ~~department or the employee introduces evidence that prior to the~~
20 ~~alleged violation the employee exercised any right provided in~~
21 ~~this act, the employer shall have the burden to show just cause~~
22 ~~for his action by clear and convincing evidence. If, upon such~~
23 ~~investigation, the department determines that provisions of this~~
24 ~~section have been violated, he shall request the Attorney~~
25 ~~General to bring an action in the local court of common pleas~~
26 ~~against the employer alleged to have violated this section. If~~
27 ~~the department or the employee introduces evidence that prior to~~
28 ~~the alleged violation the employee exercised any right provided~~
29 ~~in this act, the employer shall have the burden to show just~~
30 ~~cause for his action by clear and convincing evidence. In any~~

~~such action, the court shall have jurisdiction to restrain violations of this section and to order appropriate relief including, but not limited to, civil penalties as set forth in section 21, the hiring, rehiring or reinstatement of the employee together with the payment of any compensation otherwise lost as a result of such violations. Within 90 days of the receipt of a complaint under this section, the department shall notify the complainant and his representative by registered mail of its determination.~~

~~(c) Waivers invalid.—~~

~~(1) Any waiver by an employee or applicant for employment and the benefits or requirements of this act shall be against public policy and be null and void.~~

~~(2) Any employer's request or requirement that an employee waive any rights under this act as a condition of employment, shall constitute a violation.~~

~~Section 13. Employer educational program.~~

~~(a) Requirement.— Every employer shall institute an annual education and training program for employees routinely exposed to hazardous or toxic substance. Additional instruction shall be provided whenever the potential for exposure to toxic or hazardous substance is altered or whenever new information is received by the employer.~~

~~(b) Content of program.— The education and training program shall include, but may not be limited to, the following:~~

~~(1) the location of toxic or hazardous substances to which the employee may be exposed;~~

~~(2) the properties of toxic or hazardous substances to which employees may be exposed;~~

~~(3) the name or names of the toxic or hazardous~~

~~substance, including the generic or chemical name;~~

~~(4) the trade name of the chemical and any other
commonly used name;~~

~~(5) the acute and chronic effects of exposure at
hazardous levels;~~

~~(6) the symptoms of effects of exposure at hazardous
levels;~~

~~(7) the potential for flammability, explosion and
reactivity of such substance;~~

~~(8) appropriate emergency treatment;~~

~~(9) proper conditions for safe use and exposure to such
toxic substance; and~~

~~(10) procedures for cleanup of leaks and spills of such
toxic substance.~~

~~Section 14. Powers and duties of the department.~~

~~(a) Inspections. The department shall have the right of
entry at reasonable hours into any workplace if it has reason to
believe that the reporting requirements of this act are being
met and to conduct such other investigations as are deemed
appropriate to insure compliance with this act. The department
shall make available to appropriate authorities the results of
any investigation in which hazardous levels of toxic substances
are found.~~

~~(b) Public information. The department may make public
information containing descriptions of the toxic effects and the
circumstances under which these effects are produced for toxic
substances found in the course and scope of employment. The
department shall prepare this information in a clear and
coherent manner using words with common and everyday meanings.
The information provided may be based on the Threshold Limit~~

~~Values For Chemical Substances And Physical Agents In The
Workroom Environment With Intended Changes For 1979 and the
current Registry Of Toxic Effects Of Chemical Substances Of The
National Institute Of Occupational Safety And Health.~~

~~(c) Rules and regulations. The department shall, in the
manner provided by law, promulgate the rules, regulations and
forms reasonably necessary to carry out this act.~~

~~Section 15. Health and exposure records.~~

~~(a) General rule. Upon request by the department, employers
shall provide copies of employee health and exposure records
maintained and supplied to the Federal Government by employers
as mandated under the following Federal statutes and regulations
(except as access by third parties is limited by the statutes
and regulations):~~

~~(1) The Toxic Substances Control Act.~~

~~(2) The Occupational Safety and Health Act of 1970.~~

~~(3) The Environmental Pesticide Control Act.~~

~~(4) The regulations found at 10 CFR 20.102 through
20.409.~~

~~(b) Employee information. Upon request by the department,
employers shall provide the names and addresses of present and
former employees whenever the department determines that there
is a health risk or disease relating to the exposure of
employees to a toxic substance or toxic substances.~~

~~(c) Certain information confidential. The department shall
not release any information that identifies individuals. The
department may, however, publish analyses of reports and
information for scientific and public health purposes if the
identities of the individuals concerned cannot be ascertained
and if information protected by applicable trade secret law is~~

1 ~~not divulged.~~

2 ~~(d) Records retention requirement. The department may~~
3 ~~require an employer to keep records of his employees' use of~~
4 ~~specific toxic substances if there is scientific evidence to~~
5 ~~question the efficacy of the current threshold limit values for~~
6 ~~those substances. Such records shall be held solely for the~~
7 ~~purpose of conducting epidemiologic research on occupational~~
8 ~~health.~~

9 ~~Section 16. Outreach programs.~~

10 ~~(a) Right to information. The department may develop and~~
11 ~~implement outreach programs to inform employees of their right~~
12 ~~to information regarding the toxic effects and circumstances~~
13 ~~under which these effects are produced by toxic substances found~~
14 ~~in the course of employment.~~

15 ~~(b) Contracts with other agencies to develop program. The~~
16 ~~department may contract with public and private organizations to~~
17 ~~develop and implement such an outreach program.~~

18 ~~(c) Public relations, etc. As part of the outreach program,~~
19 ~~the division may develop and maintain a supply of informational~~
20 ~~leaflets in public buildings, including employment services~~
21 ~~offices of the employment security division, institutions and~~
22 ~~facilities under the supervision or control of the department,~~
23 ~~hospitals, union halls, community centers, schools and local~~
24 ~~agencies providing services to employers and employees to help~~
25 ~~insure that these persons are informed of the toxic substance~~
26 ~~information program. The department may mail these leaflets to~~
27 ~~employers. The division shall periodically distribute to~~
28 ~~newspapers, television and radio stations throughout the State~~
29 ~~public service announcements describing the toxic substance~~
30 ~~information outreach program.~~

1 ~~Section 17. Trade secrets.~~

2 ~~(a) Trade secret claim. If an employer believes that~~
3 ~~disclosing information required by this act will reveal a trade~~
4 ~~secret, he may file with the appropriate department a trade~~
5 ~~secret claim as herein provided.~~

6 ~~(b) Content and time of filing. If an employer claims that~~
7 ~~disclosing information on either the workplace survey or the~~
8 ~~environmental survey would reveal a trade secret, he shall file~~
9 ~~with the department a trade secret claim within 90 days of~~
10 ~~receipt of the survey. An employer making a trade secret claim~~
11 ~~shall submit two copies of the survey to the department, one~~
12 ~~with the information for which a trade secret claim is being~~
13 ~~made concealed, and one in an envelope marked "Confidential"~~
14 ~~containing the information for which a trade secret claim is~~
15 ~~being made, which the department, during the pendency of the~~
16 ~~trade secret claim, shall keep in a locked file or room. On the~~
17 ~~copies of the survey sent to the county health department, local~~
18 ~~fire department, and local police department, and retained on~~
19 ~~file at the facility, the employer shall conceal the information~~
20 ~~for which he is making a trade secret claim.~~

21 ~~(c) Registry number. If an employer claims that labeling a~~
22 ~~container pursuant to this act would reveal a trade secret, he~~
23 ~~shall file a trade secret claim with the department. Upon~~
24 ~~receipt of the trade secret claim, the department shall assign a~~
25 ~~trade secret registry number to the claim, and transmit the~~
26 ~~trade secret registry number to the employer. Upon receipt of~~
27 ~~the trade secret registry number, the employer shall affix the~~
28 ~~trade secret registry number to each container containing a~~
29 ~~substance for which the trade secret claim was made.~~

30 ~~(d) Determinations and hearings. The department shall make~~

~~1 a determination of the validity of a trade secret claim when a
2 request is made pursuant to those provisions of this act
3 relating to the disclosure of the information for which the
4 trade secret claim was made, or at any time that the department
5 deems appropriate. Upon making a determination on the validity
6 of a trade secret claim, the department shall inform the
7 employer of the determination by certified mail. If the
8 department determines that the employer's trade secret claim is
9 not valid, the employer shall have 45 days from the receipt of
10 the department's determination to file with the department a
11 written request for an administrative hearing on the
12 determination. If the employer does not file such a request
13 within 45 days, the department shall take action to provide that
14 the information for which the trade secret claim was made be
15 disclosed. At the hearing the employer shall have the burden to
16 show that the trade secret claim is valid. Within 45 days of
17 receipt of the hearing officer's recommendation, the department
18 shall affirm, reject, or modify the recommendation. The
19 department shall inform the employer of its decision by
20 certified mail. All hearings held under this section and appeals
21 from decisions of the department shall be as provided in 2
22 Pa.C.S. (relating to administrative law and procedure).~~

~~23 (e) Providing of information to physicians. The department
24 shall provide any information for which a trade secret claim is
25 pending or has been approved pursuant to this section to a
26 physician when such information is needed for medical diagnosis
27 or treatment. The department shall require the physician to sign
28 an agreement protecting the confidentiality of information
29 disclosed pursuant to this subsection.~~

~~30 (f) Surveys available to public. Any workplace survey or~~

~~environmental survey containing information for which a trade secret claim is pending or has been approved shall be made available to the public with that information concealed.~~

~~(g) Confidentiality of information. The subject of any trade secret claim pending or approved shall be treated as confidential information. Except as provided in subsection (e), the department shall not disclose any confidential information to any person except an officer or employee of the Commonwealth in connection with his official duties under any law for the protection of public health, or to the contractors of the Commonwealth and their employees if in the opinion of the department the disclosure is necessary for the completion of any work contracted for in connection with the implementation of this act.~~

~~(h) Penalty. Any officer or employee of the Commonwealth, contractor to the Commonwealth, physician, or employee of a county health department, local fire department or local police department who has access to any confidential information, and who willingly and knowingly discloses the confidential information to any person not authorized to receive it shall, upon conviction thereof, be guilty of a misdemeanor of the third degree.~~

~~(i) Application of section. The provisions of this section shall not apply to the disclosure of information concerning emissions and shall not apply to the disclosure of any information required pursuant to any other act.~~

~~Section 18. Risk to public health.~~

~~If the department determines that chemicals, hazardous or toxic materials pose a potential health risk to the general public in the area of the workplace because of their inherent~~

~~1 nature or because of possible accident, it shall inform the
2 nearest public health agency, hospital and fire company, and
3 shall submit to them a list of the potentially dangerous
4 chemical, hazardous or toxic substance and copies of each
5 material safety data sheet.~~

~~6 Section 19. List of substances within county.~~

~~7 Any member of the general public may request, in writing from
8 the department, a list of the chemical, hazardous or toxic
9 substance being bought, sold, transported, used or disposed of
10 by a specific employer or employee within the county in which he
11 resides and the department shall supply this list for each
12 employer, along with a copy of the material safety data sheet
13 for all chemical, hazardous or toxic substances on the list,
14 within 30 working days of the written request.~~

~~15 Section 20. Complaints and investigations.~~

~~16 (a) Procedure. Any employee or representative of employees
17 who believes that there is a violation by his employer of this
18 act may request an inspection by filing a complaint of the
19 violation with the department. The complaint shall be in
20 writing, signed and shall set forth, with reasonable
21 particularity, the grounds for the complaint. Within a
22 reasonable period of time after receipt of the complaint, the
23 department shall so notify the employer in writing and permit
24 the employer to demonstrate compliance with this act. If such
25 compliance has not been demonstrated to the satisfaction of the
26 department within 14 days of the mailing of the notification, an
27 employee of the department shall inspect, at reasonable times,
28 the employer's workplace and all conditions pertinent to the
29 grounds of the complaint and shall, in a reasonable manner, make
30 any additional investigation deemed necessary for the full and~~

~~effective determination of the employer's compliance with this act. Whenever the representative of the department, proceeding under this section is denied admission to any place of employment, he may obtain a warrant to make an inspection or investigation of the place of employment from any issuing authority upon a showing of both of the following:~~

~~(1) That the individual seeking the warrant is a duly authorized agent of the department.~~

~~(2) That such individual has established under oath or affirmation that the place of employment to be investigated in accordance with this section is to be inspected to determine compliance or noncompliance with the requirements of this act.~~

~~(b) Refusal of entry. Any employer or individual who refuses entry to any authorized representative of the department, while such representative is attempting to conduct an investigation or inspection pursuant to this act, or in any way wilfully obstructs him from carrying out his investigation or inspection, shall be assessed a civil penalty of not more than \$1,000.~~

~~(c) Discretion of department. The department shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer or owner being charged, the gravity of the violation, the good faith of the employer or owner and the history of previous violations.~~

~~(d) Disposition of penalties. Civil penalties owned under this section shall be paid to the department for deposit into the State Treasury and may be recovered in a civil action~~

~~brought in the court of common pleas for the judicial district where the violation is alleged to have occurred or where the employer has his principal office. The penalties collected shall be used to defray the costs of enforcement of this section.~~

~~(c) Action by employee. If an employer has not made timely correction of the violation stated in an order to comply issued under this section, an employee of that employer may bring a civil action for judicial enforcement of the requirements of this section in the court of common pleas for the judicial district where the violation is alleged to have occurred or where the employer has his principal office.~~

~~Section 21. Compliance order and penalties.~~

~~(a) Issuance and content of order. If, upon inspection or investigation of a complaint, the department finds that an employer has violated any requirements of this act, it shall with reasonable promptness issue to the employer an order to comply. This order shall be in writing and shall specifically describe the nature of the violation and shall state a reasonable time period within which the violation must be corrected by the employer.~~

~~(b) Civil penalty. If the violation has not been corrected within the time period, the department may levy a civil penalty of not more than \$1,000 per day for each violation.~~

~~(c) Hearing. The employer may request the commissioner to provide a hearing concerning any orders to comply, or penalties levied upon the employer under this section, and the hearing shall then be afforded in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure). The employer may appeal the final decision of the department in accordance with Title 2 of the Pennsylvania~~

1 ~~Consolidated Statutes.~~

2 ~~(d) Advance notice of inspection. Any person who gives~~
3 ~~advance notice of any inspection to be conducted under this act,~~
4 ~~without authority from the department, shall be assessed a civil~~
5 ~~penalty of not more than \$1,000.~~

6 ~~(e) False statement. Any person who knowingly makes any~~
7 ~~false statement, representation or certification in any list,~~
8 ~~record or other document required to be maintained pursuant to~~
9 ~~this act shall be assessed a civil penalty of not more than~~
10 ~~\$10,000.~~

11 ~~Section 22. Severability.~~

12 ~~If any provision of this act or the application thereof to~~
13 ~~any person or circumstances is held invalid, such invalidity~~
14 ~~shall not affect other provisions or applications of the act~~
15 ~~which can be given effect without the invalid provision or~~
16 ~~application, and to this end the provisions of this act are~~
17 ~~declared to be severable.~~

18 ~~Section 23. Effective date.~~

19 ~~This act shall take effect in six months.~~

20 SECTION 1. SHORT TITLE.

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21 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE WORKER AND
22 COMMUNITY RIGHT TO KNOW ACT.

23 SECTION 2. DEFINITIONS.

24 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
25 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
26 CONTEXT CLEARLY INDICATES OTHERWISE:

27 "ARTICLE." A MANUFACTURED ITEM WHICH IS FORMED TO A SPECIFIC
28 SHAPE OR DESIGN DURING MANUFACTURE, WHICH HAS END USE FUNCTIONS
29 DEPENDENT IN WHOLE OR IN PART UPON ITS SHAPE OR DESIGN DURING
30 END USE, AND WHICH DOES NOT RELEASE, OR OTHERWISE RESULT IN

1 EXPOSURE TO, A HAZARDOUS CHEMICAL UNDER NORMAL CONDITIONS OF
2 USE.

3 "CHEMICAL." ANY ELEMENT, CHEMICAL COMPOUND OR MIXTURE OF
4 ELEMENTS OR COMPOUNDS, BUT SHALL NOT INCLUDE AN ARTICLE AS
5 DEFINED HEREIN, FOOD, COSMETICS, TOBACCO, OR PRODUCTS WHICH ARE
6 PRIMARILY INTENDED FOR SALE ON THE RETAIL MARKET TO THE GENERAL
7 PUBLIC AND ARE SEALED IN THE PACKAGES TO BE USED THEREWITH.

8 "CHEMICAL ABSTRACTS SERVICE NUMBER." THE UNIQUE
9 IDENTIFICATION NUMBER ASSIGNED BY THE CHEMICAL ABSTRACTS SERVICE
10 TO CHEMICALS.

11 "CHEMICAL NAME." THE SCIENTIFIC DESIGNATION OF A CHEMICAL IN
12 ACCORDANCE WITH THE NOMENCLATURE SYSTEM DEVELOPED BY THE
13 INTERNATIONAL UNION OF PURE AND APPLIED CHEMISTRY OR THE
14 CHEMICAL ABSTRACTS SERVICE RULES OF NOMENCLATURE.

15 "COMMON NAME." ANY DESIGNATION OR IDENTIFICATION SUCH AS A
16 GENERIC NAME, BY WHICH A SUBSTANCE IS COMMONLY OR GENERALLY
17 KNOWN, OTHER THAN BY ITS CHEMICAL NAME.

18 "CONTAINER." A RECEPTACLE USED TO HOLD A LIQUID, SOLID OR
19 GASEOUS SUBSTANCE INCLUDING, BUT NOT LIMITED TO, BOTTLES,
20 PIPELINES, BAGS, BARRELS, BOXES, CANS, CYLINDERS, DRUMS,
21 CARTONS, VESSELS, VATS AND STATIONARY OR MOBILE STORAGE TANKS.
22 THE TERM DOES NOT INCLUDE CONTAINERS OF ONE GALLON OR LESS INTO
23 WHICH SUBSTANCES ARE TRANSFERRED BY THE EMPLOYEE FROM LABELED
24 CONTAINERS AND WHICH ARE INTENDED ONLY FOR THE IMMEDIATE USE BY
25 THE EMPLOYEE WHO PERFORMS THE TRANSFER OR CONTAINERS WHICH ARE
26 PRIMARILY DESIGNED TO BE SOLD ON THE RETAIL MARKET FOR USE BY
27 THE GENERAL PUBLIC.

28 "DEPARTMENT." THE DEPARTMENT OF HEALTH.

29 "EMPLOYEE." ANY PERSON CURRENTLY OR FORMERLY WORKING FOR AN
30 EMPLOYER, EXCEPT DOMESTIC OR CASUAL LABORERS EMPLOYED AT THE

1 EMPLOYER'S PLACE OF RESIDENCE.

2 "EMPLOYEE REPRESENTATIVE." AN INDIVIDUAL OR ORGANIZATION
3 AUTHORIZED BY AN EMPLOYEE OR EMPLOYEES TO EXERCISE HIS OR HER OR
4 THEIR RIGHTS TO REQUEST INFORMATION UNDER THIS ACT. A RECOGNIZED
5 OR CERTIFIED COLLECTIVE BARGAINING AGENT SHALL BE CONSIDERED TO
6 BE AN EMPLOYEE REPRESENTATIVE WITHOUT REGARD TO INDIVIDUAL
7 EMPLOYEE AUTHORIZATION.

8 "EMPLOYER." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION OR
9 ASSOCIATION DOING BUSINESS IN THE COMMONWEALTH, INCLUDING THE
10 COMMONWEALTH, ITS POLITICAL SUBDIVISIONS INCLUDING SCHOOL
11 DISTRICTS AND ANY OFFICER, BOARD, COMMISSION, AGENCY, AUTHORITY,
12 OR OTHER INSTRUMENTALITY THEREOF.

13 "ENVIRONMENTAL HAZARD." ANY SUBSTANCE, EMISSION OR DISCHARGE
14 DETERMINED BY THE DEPARTMENT TO BE A HAZARDOUS SUBSTANCE AND
15 WHICH IS LIKELY TO POSE A DANGER IF RELEASED INTO THE
16 ENVIRONMENT, AND FOR WHICH A TRADE SECRET CLAIM SHALL NOT BE
17 GRANTED.

18 "EXPOSURE." EXPOSURE SHALL REFER TO AN EMPLOYEE BEING
19 SUBJECTED TO A CHEMICAL THROUGH ANY ROUTE OF ENTRY AND INCLUDES
20 PAST EXPOSURE AND POTENTIAL EXPOSURE WITHOUT REGARD TO THE USE
21 OF PERSONAL PROTECTIVE EQUIPMENT.

22 "HAZARDOUS SUBSTANCE." ANY SUBSTANCE OR MIXTURE DESIGNATED
23 AS HAZARDOUS BY THE DEPARTMENT PURSUANT TO SECTION 3.

24 "HAZARDOUS SUBSTANCE FACT SHEET." A WRITTEN DOCUMENT
25 PREPARED BY THE DEPARTMENT FOR THE PURPOSE OF TRANSMITTING
26 INFORMATION ABOUT A HAZARDOUS SUBSTANCE TO EMPLOYERS, EMPLOYEES
27 AND MEMBERS OF THE GENERAL PUBLIC.

28 "LABEL." A SIGN, EMBLEM, STICKER, OR MARKER AFFIXED TO OR
29 STENCILED ONTO A CONTAINER LISTING THE INFORMATION REQUIRED
30 PURSUANT TO SECTION 6.

1 "MATERIAL SAFETY DATA SHEET." A WRITTEN DOCUMENT PREPARED BY
2 A SUPPLIER OR EMPLOYER IN CONFORMITY WITH THE REQUIREMENTS SET
3 FORTH IN THIS ACT, FOR THE PURPOSE OF TRANSMITTING INFORMATION
4 CONCERNING A CHEMICAL.

5 "MIXTURE." A COMBINATION OF TWO OR MORE CHEMICALS NOT
6 INVOLVING A CHEMICAL REACTION.

7 "NIOSH REGISTRY OF TOXIC EFFECTS OF CHEMICAL SUBSTANCES."
8 THE ON-LINE DATA BASE OF THE NATIONAL INSTITUTE FOR OCCUPATIONAL
9 SAFETY AND HEALTH REGISTRY OF TOXIC EFFECTS OF CHEMICAL
10 SUBSTANCES.

11 "OSHA." THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH
12 ADMINISTRATION.

13 "RESEARCH AND DEVELOPMENT LABORATORY." A SPECIALLY
14 DESIGNATED AREA USED PRIMARILY FOR RESEARCH, DEVELOPMENT AND
15 TESTING ACTIVITY, AND NOT PRIMARILY INVOLVED IN THE PRODUCTION
16 OF GOODS FOR COMMERCIAL SALE, IN WHICH HAZARDOUS SUBSTANCES ARE
17 USED BY OR UNDER THE DIRECT SUPERVISION OF A TECHNICALLY
18 QUALIFIED PERSON.

19 "SPECIAL HAZARDOUS SUBSTANCE." A HAZARDOUS SUBSTANCE SO
20 DESIGNATED BY THE DEPARTMENT BECAUSE ITS PARTICULAR TOXICITY,
21 TUMORIGENICITY, MUTAGENICITY, REPRODUCTIVE TOXICITY,
22 FLAMMABILITY, EXPLOSIVENESS, CORROSIVITY, OR REACTIVITY POSE A
23 SPECIAL HAZARD TO HEALTH AND SAFETY, AND FOR WHICH A TRADE
24 SECRET CLAIM SHALL NOT BE GRANTED.

25 "SUPPLIER." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION,
26 ASSOCIATION OR OTHER PERSON, INSIDE OR OUTSIDE THIS
27 COMMONWEALTH, WHO MANUFACTURERS, SUPPLIES, IMPORTS OR
28 DISTRIBUTES ANY CHEMICAL FOR SALE, DISTRIBUTION OR USE WITHIN
29 THE COMMONWEALTH.

30 "TRADE NAME." ANY DESIGNATION OR IDENTIFICATION SUCH AS A

1 CODE NAME OR NUMBER, OR A BRAND NAME, USED BY AN EMPLOYER OR
2 SUPPLIER TO IDENTIFY A CHEMICAL OTHER THAN BY ITS CHEMICAL OR
3 COMMON NAME.

4 "TRADE SECRET." ANY FORMULA, PLAN, PATTERN, PROCESS,
5 PRODUCTION DATA, INFORMATION, OR COMPILATION OF INFORMATION,
6 WHICH IS NOT PATENTED, WHICH IS KNOWN ONLY TO AN EMPLOYER AND A
7 LIMITED NUMBER OF OTHER INDIVIDUALS, AND WHICH IS USED IN THE
8 FABRICATION AND PRODUCTION OF AN ARTICLE OF TRADE OR SERVICE,
9 AND WHICH GIVES THE EMPLOYER POSSESSING IT A COMPETITIVE
10 ADVANTAGE OVER BUSINESSES WHO DO NOT POSSESS IT, OR THE SECRECY
11 OF WHICH IS CERTIFIED BY AN APPROPRIATE OFFICIAL OF THE FEDERAL
12 GOVERNMENT AS NECESSARY FOR NATIONAL DEFENSE PURPOSES.

13 "WORK AREA." ANY ROOM, SECTION OF A ROOM, OR OTHER IMMEDIATE
14 AREA WITHIN A WORKPLACE WHERE ONE OR MORE WORKERS ARE BASED FOR
15 THE REGULAR PERFORMANCE OF THEIR DUTIES.

16 "WORKPLACE." ANY BUILDING OR WORK AREA OR CONTIGUOUS GROUP
17 OF BUILDINGS OR WORK AREAS IN THIS COMMONWEALTH USED BY THE
18 EMPLOYER ON A PERMANENT OR TEMPORARY BASIS TO CONDUCT BUSINESS.
19 SECTION 3. HAZARD SURVEYS.

20 (A) HAZARDOUS SUBSTANCE LIST.--THE DEPARTMENT SHALL COMPILE
21 A LIST OF HAZARDOUS SUBSTANCES WHICH SHALL INCLUDE, BUT NOT BE
22 LIMITED TO, THE SUBSTANCES FOUND IN THE LATEST COMPILATION OR
23 ISSUE OF ANY ONE OF THE FOLLOWING LISTS:

24 (1) FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA) LIST
25 OF TOXIC POLLUTANTS AND HAZARDOUS SUBSTANCES PREPARED
26 PURSUANT TO SECTIONS 307 AND 311 OF THE FEDERAL CLEAN WATER
27 ACT OF 1977 (33 U.S.C. §§ 1317, 1321).

28 (2) EPA LIST OF HAZARDOUS AIR POLLUTANTS PREPARED
29 PURSUANT TO SECTION 112 OF THE FEDERAL CLEAN AIR ACT (42
30 U.S.C. § 7412).

(3) EPA LIST OF RESTRICTED USE PESTICIDES FOUND AT 40
CFR § 162.30.

(4) EPA CARCINOGEN ASSESSMENT GROUP'S LIST OF
CARCINOGENS.

(5) OSHA LIST OF TOXIC AND HAZARDOUS SUBSTANCES FOUND AT
29 CFR PART 1910, SUBPART Z.

(6) INTERNATIONAL AGENCY FOR RESEARCH ON CANCER SUBLIST
ENTITLED, "SUBSTANCES FOUND TO HAVE AT LEAST SUFFICIENT
EVIDENCE OF CARCINOGENICITY IN ANIMALS".

(7) NATIONAL TOXICOLOGY PROGRAM'S LIST OF SUBSTANCES
PUBLISHED IN THEIR LATEST ANNUAL REPORT ON CARCINOGENS.

(8) NATIONAL FIRE PROTECTION ASSOCIATION LIST FOUND IN
"HAZARDOUS CHEMICAL DATA (NFPA 49)".

(9) NATIONAL FIRE PROTECTION ASSOCIATION LIST FOUND IN
"FIRE HAZARD PROPERTIES OF FLAMMABLE LIQUIDS, GASES, VOLATILE
SOLIDS (NFPA 325M), BUT ONLY THOSE SUBSTANCES FOUND ON
SUBLISTS FOR HEALTH ITEMS, CATEGORIES 2, 3, 4; SUBLISTS FOR
REACTIVITY ITEMS, CATEGORIES 3, 4; SUBLISTS FOR FLAMMABILITY,
CATEGORIES 3, 4.

(10) AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL
HYGIENISTS LIST FOUND IN "THRESHOLD LIMIT VALUE FOR CHEMICAL
SUBSTANCES AND PHYSICAL AGENTS IN THE WORKPLACE";

(11) NATIONAL CANCER INSTITUTE SUBLIST ENTITLED,
"CARCINOGENS BIOASSAYS WITH AT LEAST EVIDENCE SUGGESTIVE OF
CARCINOGENIC EFFECT," BUT INCLUDING ONLY THOSE SUBSTANCES
WHICH SATISFY CRITERIA OF THE NATIONAL TOXICOLOGY PROGRAM
INDICATING SIGNIFICANT CARCINOGENIC EFFECT.

THE LIST SHALL FURTHER INCLUDE ANY OTHER SUBSTANCE DESIGNATED BY
THE DEPARTMENT AS A HAZARDOUS SUBSTANCE BECAUSE OF ITS KNOWN OR
PROBABLE ADVERSE HUMAN OR ENVIRONMENTAL EFFECT. THESE LISTS

1 SHALL BE UPDATED OR EXPANDED BY THE DEPARTMENT AS NECESSARY IN
2 LIGHT OF NEW SCIENTIFIC EVIDENCE AND KNOWLEDGE. A COPY OF EACH
3 LIST AND ANY MODIFICATIONS THEREOF SHALL BE TRANSMITTED TO EVERY
4 EMPLOYER AS NECESSARY, TOGETHER WITH HAZARD SURVEY FORMS.

5 (B) SPECIAL AND ENVIRONMENTAL HAZARDS.--THE DEPARTMENT SHALL
6 DESIGNATE THOSE HAZARDOUS SUBSTANCES WHICH SHALL BE CONSIDERED
7 SPECIAL HAZARDOUS SUBSTANCES AND THOSE WHICH SHALL BE CONSIDERED
8 ENVIRONMENTAL HAZARDS. THE DEPARTMENT SHALL COMPILE SEPARATE
9 LISTS OF THE SPECIAL HAZARDOUS SUBSTANCES AND THE ENVIRONMENTAL
10 HAZARDS. THESE LISTS SHALL BE UPDATED, TRANSMITTED TO EMPLOYERS,
11 AND POSTED BY EMPLOYERS IN THE SAME MANNER AS THE HAZARDOUS
12 SUBSTANCE LIST.

13 (C) HAZARD SURVEY FORM.--EVERY EMPLOYER SHALL, UPON THE FORM
14 SUPPLIED BY THE DEPARTMENT, FILL OUT A HAZARD SURVEY FOR EACH
15 WORKPLACE PROVIDING CERTAIN INFORMATION FOR EACH HAZARDOUS
16 SUBSTANCE FOUND IN SAID WORKPLACE: PROVIDED, THAT THE DEPARTMENT
17 MAY BY REGULATION EXEMPT EMPLOYERS OR CERTAIN CLASSES THEREOF
18 FROM REPORTING ANY HAZARDOUS SUBSTANCE WHERE IT IS PRESENT IN
19 THE WORKPLACE IN AN AMOUNT LESS THEN 55 GALLONS OR 500 POUNDS:
20 PROVIDED, FURTHER, THAT SPECIAL HAZARDOUS SUBSTANCES AND
21 ENVIRONMENTAL HAZARDS SHALL BE REPORTED IN ANY AMOUNT.

22 (D) CONTENTS OF FORM.--THE HAZARD SURVEY FORM SHALL INCLUDE
23 BUT NOT BE LIMITED TO:

24 (1) THE CHEMICAL NAME OF THE SUBSTANCE AND ITS CHEMICAL
25 ABSTRACTS SERVICE NUMBER OR, IF NONE EXISTS, ITS COMMON NAME
26 OR TRADE NAME AS PROVIDED ON THE DEPARTMENT'S HAZARDOUS
27 SUBSTANCE LISTS.

28 (2) THE MAXIMUM QUANTITY OF THE SUBSTANCE PRESENT DURING
29 A YEAR.

30 (E) ENVIRONMENTAL HAZARDS.--EVERY EMPLOYER SHALL FURTHER,

1 UPON A FORM SUPPLIED BY THE DEPARTMENT, FILL OUT AN
2 ENVIRONMENTAL HAZARD SURVEY FOR EACH WORKPLACE. FOR EACH
3 ENVIRONMENTAL HAZARD ON THE LIST, THE EMPLOYER SHALL SUPPLY THE
4 FOLLOWING ADDITIONAL INFORMATION ON THE HAZARD SURVEY FORM:

5 (1) THE TOTAL STACK OR POINT-SOURCE EMISSIONS OF THE
6 SUBSTANCE.

7 (2) THE TOTAL ESTIMATED FUGITIVE OR NONPOINT-SOURCE
8 EMISSIONS OF THE SUBSTANCE.

9 (3) THE TOTAL DISCHARGE OF THE SUBSTANCE INTO THE
10 SURFACE OR GROUNDWATER, THE TREATMENT METHODS, AND THE RAW
11 WASTEWATER VOLUME AND LOADINGS.

12 (4) THE TOTAL DISCHARGE OF THE SUBSTANCE INTO PUBLICLY-
13 OWNED TREATMENT WORKS.

14 (5) THE QUANTITY, AND METHODS OF DISPOSAL, OF ANY WASTES
15 CONTAINING THE SUBSTANCE, THE METHOD OF ON-SITE STORAGE OF
16 THESE WASTES, THE LOCATION OR LOCATIONS OF THE FINAL DISPOSAL
17 SITES FOR THESE WASTES AND THE IDENTITY OF THE HAULER OF THE
18 WASTES.

19 (F) SUBMISSION TO THE DEPARTMENT.--WITHIN 90 DAYS OF RECEIPT
20 OF THE FORMS FROM THE DEPARTMENT, EVERY EMPLOYER SHALL SUBMIT
21 THE COMPLETED HAZARD SURVEY FORM AND ENVIRONMENTAL SURVEY FORM
22 TO THE DEPARTMENT IN HARRISBURG, AND TO THE DEPARTMENT'S
23 REGIONAL OFFICE WHICH IS RESPONSIBLE FOR THE AREA IN WHICH THAT
24 WORKPLACE IS LOCATED. COPIES OF THE SURVEY FORMS SHALL BE KEPT
25 ON FILE AT THE EMPLOYER'S PRINCIPAL PLACE OF BUSINESS AND AT
26 EACH WORKPLACE WHERE EMPLOYEES WORK. THE DEPARTMENT SHALL
27 REQUIRE EVERY EMPLOYER TO UPDATE THE HAZARD SURVEY AND THE
28 ENVIRONMENTAL SURVEY FOR EACH WORKPLACE EVERY TWO YEARS.

29 (G) EXEMPTIONS FROM FILING.--THE DEPARTMENT MAY, BY
30 REGULATION, EXEMPT CERTAIN GROUPS OR CLASSES OF EMPLOYERS FROM

1 FILING OR UPDATING HAZARD SURVEY FORMS AND/OR ENVIRONMENTAL
2 SURVEY FORMS, TAKING INTO ACCOUNT THE QUANTITY OF HAZARDS
3 SUBSTANCES AND/OR ENVIRONMENTAL HAZARDS THE EMPLOYER IS LIKELY
4 TO POSSESS OR DISCHARGE, THE LIKELY DANGER TO THE SURROUNDING
5 COMMUNITY POSED BY SAID EMPLOYERS, AND THE EFFECT THAT THE
6 ABSENCE OF SUCH INFORMATION MAY HAVE ON FUTURE EPIDEMIOLOGICAL
7 OR OTHER STUDIES: PROVIDED FURTHER, THAT UPON REQUEST BY ANYONE
8 TO THE DEPARTMENT FOR HAZARD INFORMATION NORMALLY CONTAINED ON
9 ONE OR MORE OF SAID SURVEY FORMS FOR A SPECIFIC EMPLOYER, THE
10 DEPARTMENT SHALL IMMEDIATELY NOTIFY SAID EMPLOYER, WHO SHALL
11 HAVE 20 DAYS IN WHICH TO COMPLETE THE REQUIRED FORMS AND FILE IT
12 WITH THE DEPARTMENT.

13 (H) RETENTION OF SURVEYS.--THE DEPARTMENT SHALL MAINTAIN A
14 FILE OF ALL COMPLETED HAZARD SURVEYS RECEIVED FROM EMPLOYERS.
15 EACH SURVEY RECEIVED SHALL BE RETAINED BY THE DEPARTMENT FOR 30
16 YEARS. THE DEPARTMENT SHALL ALSO RETAIN FOR 30 YEARS AT LEAST
17 ONE MATERIAL SAFETY DATA SHEET FOR EACH HAZARDOUS SUBSTANCE
18 TOGETHER WITH REVISIONS THEREOF.

19 SECTION 4. OBLIGATION OF SUPPLIERS.

20 (A) LABELING.--EVERY SUPPLIER, AS A CONDITION OF DOING
21 BUSINESS IN THIS COMMONWEALTH, SHALL INSURE THAT THE CONTAINER
22 OF ANY CHEMICAL WHICH IS DELIVERED TO A POINT WITHIN THIS
23 COMMONWEALTH OR WHICH IS PRODUCED WITHIN THIS COMMONWEALTH IS
24 CLEARLY LABELED IN THE MANNER REQUIRED BY SECTION 6.

25 (B) PROVISIONS OF MATERIAL SAFETY DATA SHEET.--EVERY
26 SUPPLIER, AS A CONDITION OF DOING BUSINESS IN THIS COMMONWEALTH,
27 SHALL PROVIDE A MATERIAL SAFETY DATA SHEET FOR EACH CHEMICAL
28 WHICH IS DELIVERED TO A POINT WITHIN THIS COMMONWEALTH. ONE COPY
29 OF THE MATERIAL SAFETY DATA SHEET SHALL BE TRANSMITTED TO THE
30 RECIPIENT OF SAID SUBSTANCE AT THE TIME OF DELIVERY, AND ONE

1 COPY SHALL BE PROVIDED TO THE DEPARTMENT. THE SUPPLIER SHALL BE
2 REQUIRED TO SUPPLY NEW SHEETS TO THE DEPARTMENT ONLY AS THE
3 SHEETS ARE REVISED OR NEW INFORMATION IS DISCOVERED.

4 (C) CONTENTS OF MATERIAL SAFETY DATA SHEETS.--THE
5 INFORMATION IN THE MATERIAL SAFETY DATA SHEETS SHALL BE AT LEAST
6 AS COMPLETE AS THAT MAINTAINED BOTH BY THE NATIONAL LIBRARY OF
7 MEDICINE COMPUTER FILES AND THE LATEST EDITION OF THE NATIONAL
8 FIRE PROTECTION ASSOCIATION'S FIRE PROTECTION GUIDE ON HAZARDOUS
9 MATERIALS. IT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
10 FOLLOWING INFORMATION:

11 (1) THE CHEMICAL NAME, THE CHEMICAL ABSTRACTS SERVICE
12 NUMBER, THE TRADE NAME, COMMON NAMES, AND ANY OTHER NAMES
13 UNDER WHICH SAID SUBSTANCE IS REGULATED BY ANOTHER STATE OR
14 FEDERAL AGENCY.

15 (2) THE CHEMICAL NAME, COMMON NAME AND CHEMICAL
16 ABSTRACTS SERVICE NUMBER OF EVERY CHEMICAL CONTAINED IN THE
17 SUBSTANCE WHICH COMPRISES 3% OR MORE OF THE SUBSTANCE, EXCEPT
18 THAT HAZARDOUS SUBSTANCES SHALL BE LISTED IF THEY COMPRISE 1%
19 OR MORE OF THE SUBSTANCE, AND ALL SPECIAL HAZARDOUS
20 SUBSTANCES SHALL BE LISTED.

21 (3) A REFERENCE TO ALL RELEVANT INFORMATION ON THE
22 HAZARDOUS SUBSTANCE FROM THE NIOSH REGISTRY OF TOXIC EFFECTS
23 OF CHEMICAL SUBSTANCES.

24 (4) THE BOILING POINT, VAPOR PRESSURE, VAPOR DENSITY,
25 SOLUBILITY IN WATER, SPECIFIC GRAVITY, MELTING POINT,
26 PHYSICAL STATE, COLOR AND ODOROUS PROPERTIES AT STANDARD
27 CONDITIONS OF TEMPERATURE AND PRESSURE.

28 (5) THE FLASH POINT, AUTO IGNITION TEMPERATURE,
29 PERCENTAGE BY VOLUME OF FLAMMABLE LIMITS, THE RECOMMENDED
30 FIRE EXTINGUISHING MEDIA, ANY SPECIAL FIREFIGHTING PROCEDURE

1 AND ANY OTHER UNUSUAL FIRE OR EXPLOSION HAZARDS.

2 (6) THE HAZARDS, IF ANY, POSED BY THE SUBSTANCE,
3 INCLUDING ITS TOXICITY, TUMORIGENICITY, MUTAGENICITY,
4 REPRODUCTIVE TOXICITY, FLAMMABILITY, EXPLOSIVENESS,
5 CORROSIVITY AND REACTIVITY, INCLUDING SPECIFIC INFORMATION ON
6 ITS REACTIVITY WITH WATER.

7 (7) A DESCRIPTION, IN NONTECHNICAL LANGUAGE, OF THE
8 ACUTE AND CHRONIC HEALTH EFFECTS OF EXPOSURE TO THE
9 SUBSTANCE, INCLUDING THE SIGNS AND SYMPTOMS OF EXPOSURE, AND
10 MEDICAL CONDITIONS THAT MIGHT BE AGGRAVATED BY EXPOSURE.

11 (8) THE PERMISSIBLE EXPOSURE LEVEL, THRESHOLD LIMIT
12 VALUE, SHORT-TERM, CEILING, AND OTHER ESTABLISHED LIMIT
13 VALUES AS SET BY OSHA, NATIONAL INSTITUTE OF OCCUPATIONAL
14 SAFETY AND HEALTH, AMERICAN INDUSTRIAL HYGIENE ASSOCIATION,
15 AND AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL
16 HYGIENISTS.

17 (9) THE POTENTIAL ROUTES AND SYMPTOMS OF EXPOSURE TO THE
18 HAZARDOUS SUBSTANCE.

19 (10) EMERGENCY FIRST AID PROCEDURES IN CASE OF
20 INHALATION, SWALLOWING, EYE SPLASHES, AND SKIN CONTAMINATION,
21 INCLUDING A TELEPHONE NUMBER TO BE CALLED DAY OR NIGHT IN AN
22 EMERGENCY, AND ANY SPECIAL INFORMATION NEEDED BY MEDICAL
23 PRACTITIONERS TREATING PERSONS.

24 (11) THE APPROPRIATE EMERGENCY AND FIRST AID PROCEDURES
25 FOR SPILLS, FIRES, POTENTIAL EXPLOSIONS, AND ACCIDENTAL OR
26 UNPLANNED EMISSIONS INVOLVING THE HAZARDOUS SUBSTANCE.

27 (12) RECOMMENDED WASTE DISPOSAL METHOD.

28 (13) PERSONAL PROTECTIVE EQUIPMENT TO BE WORN OR USED
29 WHEN HANDLING OR OTHERWISE COMING IN CONTACT WITH THE
30 SUBSTANCE, AND ANY SPECIAL PRECAUTIONS, RECOMMENDED

ENGINEERING CONTROLS OR WORK PRACTICES TO BE USED IN HANDLING
THE SUBSTANCE.

(14) A DESCRIPTION OF THE EXTENT OF TESTING PERFORMED ON
THE SUBSTANCE AND AN INDICATION OF WHAT ASPECTS HAVE NOT BEEN
TESTED.

(15) A DESCRIPTION OF THE KNOWN OR POSSIBLE SYNERGISTIC
OR ADDITIVE EFFECTS CAUSED BY EXPOSURE TO THIS SUBSTANCE AND
TO OTHER SUBSTANCES OVER THE SAME PERIOD OF TIME.

(16) FOR MIXTURES, A DESCRIPTION OF ANY DANGERS OR
HAZARDS CREATED BY THE MIXTURE THAT ARE GREATER THAN AND/OR
WOULD NOT BE OTHERWISE DISCLOSED BY THE HAZARDOUS SUBSTANCE
FACT SHEETS FOR THE CONSTITUENT CHEMICAL SUBSTANCES.

(17) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE
MANUFACTURER OF THE CHEMICAL.

(18) DATE OF PREPARATION OR LAST REVISION OF THE SHEET.

(D) CHEMICAL IDENTIFICATION SHEET.--AN EMPLOYER OR SUPPLIER
MAY, FOR CONVENIENCE, PROVIDE THE INFORMATION REQUESTED IN
SUBSECTION (C)(2) BY AFFIXING A CHEMICAL IDENTIFICATION SHEET
CONTAINING SAID INFORMATION TO AN ALREADY EXISTING MSDS, AND IT
SHALL BE CONSIDERED AN INTEGRAL PART OF THE MSDS.

SECTION 5. AVAILABILITY OF INFORMATION.

(A) DISSEMINATION TO LOCAL AGENCIES.--THE DEPARTMENT SHALL
ENSURE THAT EACH OF ITS REGIONAL OFFICES MAKES AVAILABLE TO THE
PUBLIC THE COMPLETED SURVEY FORMS, MSDS'S, AND OTHER INFORMATION
REQUIRED UNDER THIS ACT. THE DEPARTMENT SHALL FURTHER MAKE
IMMEDIATELY AVAILABLE ANY AND ALL COMPLETED SURVEY FORMS AND
MSDS'S FOR A PARTICULAR COUNTY TO THE APPROPRIATE LOCAL POLICE,
FIRE OR OTHER EMERGENCY RESPONSE AGENCY, UPON SAID AGENCIES
REQUEST.

(B) NEW INFORMATION.--WHENEVER A SUPPLIER RECEIVES OR

1 DISCOVERS ANY RELEVANT NEW INFORMATION REGARDING A HAZARDOUS
2 SUBSTANCE, THE EMPLOYER SHALL MAKE SUCH INFORMATION AVAILABLE TO
3 THE DEPARTMENT AND TO ALL EMPLOYERS TO WHICH THE SUPPLIER
4 PROVIDES SAID SUBSTANCE. THE EMPLOYER SHALL IN TURN MAKE SUCH
5 INFORMATION AVAILABLE TO EMPLOYEES AND THE EMPLOYEES'
6 REPRESENTATIVES, UPON RECEIPT OF SUCH NEW INFORMATION.

7 (C) COPY OF DATA AVAILABLE TO EMPLOYEES.--AN EMPLOYER SHALL
8 FURNISH, UPON THE REQUEST OF AN EMPLOYEE OR EMPLOYEE
9 REPRESENTATIVE, ANY OF THE FOLLOWING:

10 (1) ANY HAZARD SURVEY AND/OR ENVIRONMENTAL HAZARD FOR
11 THAT WORKPLACE.

12 (2) ANY MATERIAL SAFETY DATA SHEET FOR ANY CHEMICAL
13 PRESENT IN ANY OF THE EMPLOYER'S WORKPLACES.

14 SAID INFORMATION SHALL BE FURNISHED WITHIN 72 HOURS OF THE
15 REQUEST THEREFORE. IF THE INFORMATION IS NOT PROVIDED WITHIN 72
16 HOURS, THE EMPLOYEE MAY REFUSE TO WORK, WITHOUT DISCIPLINE, LOSS
17 OF PAY, OR OTHER RETALIATION BY THE EMPLOYER, WITH ANY HAZARDOUS
18 SUBSTANCE DESCRIBED IN THE REQUESTED WRITTEN MATERIALS UNTIL
19 THEY ARE MADE AVAILABLE. IT IS THE RESPONSIBILITY OF THE
20 EMPLOYER TO INSURE THAT AN ADEQUATE NUMBER OF COPIES OF THE
21 HAZARD SURVEYS, MATERIAL SAFETY DATA SHEETS AND HAZARDOUS
22 SUBSTANCE FACT SHEETS ARE AVAILABLE TO MEET THE DEMANDS OF
23 EMPLOYEES.

24 (D) INFORMATION IN THE WORK AREA.--EVERY EMPLOYER SHALL POST
25 IN EVERY WORK AREA THE MATERIAL SAFETY DATA SHEET FOR EVERY
26 SUBSTANCE TO WHICH THE EMPLOYEES WORKING IN SAID WORK AREA MAY
27 BE EXPOSED. THIS POSTING SHALL BE IN SUCH A MANNER AND IN SUCH
28 NUMBERS AS TO GIVE EVERY EMPLOYEE IN THAT WORK AREA EASY AND
29 UNHINDERED ACCESS TO THE MATERIAL SAFETY DATA SHEETS WITHOUT
30 PERMISSION OR INTERVENTION OF MANAGEMENT OR ANY SUPERVISOR.

1 (E) LIMITATION ON FEES.--ALL MATERIAL SAFETY DATA SHEETS,
2 HAZARD SURVEYS, EDUCATIONAL AND OTHER MATERIALS SHALL BE
3 FURNISHED BY AN EMPLOYER TO AN EMPLOYEE OR EMPLOYEE
4 REPRESENTATIVE AT NO COST TO THE EMPLOYEE OR EMPLOYEE
5 REPRESENTATIVE. IF THE EMPLOYEE MAKING THE REQUEST HAS REQUESTED
6 AND RECEIVED THE SAME INFORMATION ABOUT THE SAME SUBSTANCE
7 WITHIN THE PRECEDING 12 MONTHS, THE EMPLOYER MAY IMPOSE A
8 REASONABLE CHARGE NOT TO EXCEED THE COSTS OF REPRODUCTION FOR
9 THAT INFORMATION. NO FEE SHALL BE CHARGED IF THE EMPLOYEE'S JOB
10 ASSIGNMENT HAS CHANGED OR THERE IS NEW INFORMATION AVAILABLE
11 CONCERNING ANY OF THE SUBJECTS ABOUT WHICH INFORMATION IS
12 REQUIRED TO BE PROVIDED. IN NO EVENT SHALL THE EMPLOYER CHARGE
13 FEES PURSUANT TO REQUESTS BY A CERTIFIED OR RECOGNIZED
14 BARGAINING AGENT.

15 (F) PUBLIC ACCESS.--ANY PERSON MAY REQUEST FROM THE
16 DEPARTMENT A COPY OF THE HAZARD SURVEY FOR A WORKPLACE OR
17 EMPLOYER, AND ANY MATERIAL SAFETY DATA SHEET OR HAZARDOUS
18 SUBSTANCE FACT SHEET ON FILE AND THE DEPARTMENT SHALL TRANSMIT
19 THE REQUESTED MATERIAL WITHIN 30 DAYS: PROVIDED, THAT IF A
20 REQUESTED HAZARD SURVEY FORM IS NOT IN THE DEPARTMENT'S
21 POSSESSION BY OPERATION OF SECTION 3(G), THE DEPARTMENT MAY
22 RESPOND WITHIN 45 DAYS. ANY REQUEST SHALL BE TREATED BY THE
23 DEPARTMENT AS CONFIDENTIAL AS TO THE NAME AND ADDRESS OF THE
24 REQUESTOR. THE DEPARTMENT SHALL ALSO MAKE MATERIALS FOR ITS
25 RESPECTIVE REGIONS IMMEDIATELY AVAILABLE DURING BUSINESS HOURS
26 FROM ITS REGIONAL OFFICES. MATERIALS SHALL BE AVAILABLE AT A FEE
27 NOT TO EXCEED THE COST OF REPRODUCING THEM.

28 SECTION 6. LABELING.

29 (A) CONTAINERS.--THE EMPLOYER SHALL ENSURE THAT THE
30 CONTAINER OF EACH CHEMICAL IN EACH WORKPLACE IS LABELED WITH THE

1 FOLLOWING INFORMATION CONCERNING THE SUBSTANCE OR SUBSTANCES
2 CONTAINED THEREIN;

3 (1) THE CHEMICAL NAME AND CHEMICAL ABSTRACTS SERVICE
4 NUMBER.

5 (2) A HAZARD WARNING AS PROVIDED IN SUBSECTION (F).

6 (3) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE
7 MANUFACTURER OF THE SUBSTANCE.

8 THE EMPLOYER SHALL ENSURE THAT EACH LABEL IS PROMINENTLY AFFIXED
9 TO THE CONTAINER OR THE PIPING SYSTEM AND DISPLAYED IN SUCH A
10 MANNER THAT EMPLOYEES CAN EASILY IDENTIFY THE CHEMICAL IN THAT
11 CONTAINER. THESE LABELING REQUIREMENTS MAY BE ALTERED ONLY IN
12 ACCORDANCE WITH SUBSECTIONS (C) AND (E) OR SECTION 11. THE
13 EMPLOYER SHALL NOT REMOVE OR DEFACE EXISTING LABELS ON INCOMING
14 CONTAINERS OF CHEMICALS UNLESS THE CONTAINER IS IMMEDIATELY
15 RELABELED WITH THE REQUIRED INFORMATION. THE EMPLOYER NEED NOT
16 AFFIX NEW LABELS TO COMPLY WITH THIS SECTION IF EXISTING LABELS
17 ALREADY CONVEY THE REQUIRED INFORMATION.

18 (B) MIXTURES.--IF A CONTAINER CONTAINS A MIXTURE, IT SHALL
19 HAVE A LABEL THAT IDENTIFIES THE MIXTURE BY ITS COMMON NAME. IF
20 NO COMMON NAME EXISTS, THE LABEL MAY USE A TRADE NAME. THE LABEL
21 SHALL FURTHER CONTAIN THE CHEMICAL NAME AND CHEMICAL ABSTRACT
22 SERVICE NUMBER OF EVERY HAZARDOUS SUBSTANCE CONTAINED IN THE
23 MIXTURE. THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO A
24 HAZARDOUS SUBSTANCE CONSTITUTING LESS THAN 1% OF A MIXTURE
25 UNLESS THE SUBSTANCE IS A SPECIAL HAZARDOUS SUBSTANCE.

26 (C) PIPELINES.--THE CONTENT OF A PIPELINE SYSTEM SHALL BE
27 IDENTIFIED BY LABELS APPLIED ON THE PIPE BODY AT ALL VALVES,
28 OUTLETS, VENTS, DRAINS AND SAMPLE CONNECTIONS DESIGNED TO ALLOW
29 THE RELEASE OF A SUBSTANCE FROM THE PIPELINE.

30 (D) RESEARCH AND DEVELOPMENT LABORATORIES.--EMPLOYERS MAY

1 LABEL CONTAINERS IN A RESEARCH AND DEVELOPMENT LABORATORY BY
2 MEANS OF A CODE OF NUMBER SYSTEM, IF THE CODE OR NUMBER SYSTEM
3 WILL ENABLE A EMPLOYEE TO READILY MAKE A CROSS REFERENCE TO
4 DOCUMENTARY MATERIAL RETAINED ON FILE BY THE EMPLOYER AT THE
5 FACILITY WHICH WILL PROVIDE THE EMPLOYEE WITH THE CHEMICAL NAME
6 AND CHEMICAL ABSTRACTS SERVICE NUMBER OF THE SUBSTANCE WITHIN
7 THE CONTAINER, EXCEPT AS PROVIDED IN SUBSECTION (E). THE CODE OF
8 NUMBER SYSTEM SHALL BE DESIGNED TO ALLOW THE EMPLOYEE FREE AND
9 READY ACCESS TO ALL TIMES TO THE CHEMICAL NAME AND CHEMICAL
10 ABSTRACTS SERVICE NUMBER OF THE SUBSTANCE IN THE CONTAINER,
11 SHALL BE DESIGNED TO ALLOW THE EMPLOYEE ACCESS TO THIS
12 INFORMATION WITHOUT THE PERMISSION OR ASSISTANCE OF MANAGEMENT
13 AND SHALL BE AVAILABLE TO THE EMPLOYEE IN CLOSE PROXIMITY TO HIS
14 SPECIFIC JOB LOCATION OR LOCATIONS.

15 (E) COMMON NAME USAGE.--WITHIN ONE YEAR AFTER THE DATE THIS
16 ACT BECOMES LAW, THE DEPARTMENT SHALL ADOPT A LIST OF
17 SUBSTANCES, THE CONTAINERS OF WHICH MAY BE LABELED WITH A COMMON
18 OR TRADE NAME AND CHEMICAL ABSTRACTS SERVICE NUMBER OF THEIR
19 CONTENTS. THIS LIST SHALL BE AMENDED BY THE DEPARTMENT AS
20 NEEDED. THE DEPARTMENT SHALL INCLUDE ON THE LIST ADOPTED
21 PURSUANT TO THIS SUBSECTION ONLY SUBSTANCES WHICH ARE WIDELY OR
22 MORE EFFECTIVELY RECOGNIZED BY THIS COMMON NAME. WITH RESPECT TO
23 ANY SUBSTANCE LISTED IN THE NIOSH REGISTRY OF TOXIC EFFECTS OF
24 CHEMICAL SUBSTANCES, THE DEPARTMENT SHALL ONLY PERMIT THE USE OF
25 ANY COMMON OR TRADE NAME LISTED IN SAID REGISTRY. AN EMPLOYER
26 SHALL PROVIDE THE CHEMICAL NAME OF A SUBSTANCE IN A CONTAINER
27 LABELED PURSUANT TO THIS SUBSECTION WITHIN 72 HOURS OF THE
28 REQUEST THEREOF.

29 (F) HAZARD WARNINGS.--EACH EMPLOYER SHALL ENSURE THAT
30 CONTAINER LABELS PROVIDE A WARNING AS TO THE SPECIFIC NATURE OF

1 HAZARD ARISING FROM THE SUBSTANCE IN THE CONTAINER. THE HAZARD
2 WARNINGS SHALL BE GIVEN IN CONFORMITY WITH ONE OF THE NATIONALLY
3 RECOGNIZED AND ACCEPTED SYSTEMS OF PROVIDING SUCH WARNINGS AND
4 SHALL BE CONSISTENT THROUGHOUT THE WORKPLACE.

5 (G) EXEMPTIONS.--THIS SECTION DOES NOT REQUIRE LABELING OF
6 CONTAINERS WHICH CONTAIN:

7 (1) ANY PESTICIDE AS SUCH TERM IS DEFINED IN THE FEDERAL
8 INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (7 U.S.C. § 135 ET
9 SEQ.).

10 (2) ANY FOOD, DRUG OR COSMETIC AS SUCH TERMS ARE DEFINED
11 IN THE FEDERAL FOOD, DRUG AND COSMETIC ACT (21 U.S.C. § 301
12 ET SEQ.).

13 (3) ANY DISTILLED SPIRITS (BEVERAGE ALCOHOLS), WINE OR
14 MALT BEVERAGE INTENDED FOR NONINDUSTRIAL USE, AS SUCH TERMS
15 ARE DEFINED IN THE FEDERAL ALCOHOL ADMINISTRATION ACT (27
16 U.S.C. § 201 ET SEQ.): PROVIDED SAID CONTAINERS ARE LABELED
17 AS REQUIRED UNDER APPLICABLE FEDERAL LAWS AND REGULATIONS.

18 SECTION 7. NOTICE.

19 EVERY EMPLOYER SHALL PROMINENTLY POST IN EVERY WORKPLACE, IN
20 A LOCATION OR LOCATIONS WHERE NOTICES TO EMPLOYEES ARE NORMALLY
21 POSTED:

22 (1) LISTS OF ALL HAZARDOUS SUBSTANCES AND SPECIAL
23 HAZARDOUS SUBSTANCES FOUND IN THAT WORKPLACE AND ALL
24 ENVIRONMENTAL HAZARDS EMITTED OR DISCHARGED THEREFROM.

25 (2) NOTIFICATION TO EMPLOYEES AND THEIR REPRESENTATIVES
26 OF THEIR RIGHTS UNDER THIS ACT.

27 (3) ALL OTHER NOTICES REQUIRED BY THE DEPARTMENT TO BE
28 POSTED.

29 SECTION 8. EMPLOYEE EDUCATION PROGRAM.

30 (A) REQUIREMENT.--EVERY EMPLOYER SHALL INSTITUTE AN ANNUAL

1 EDUCATION AND TRAINING PROGRAM FOR EMPLOYEES EXPOSED TO
2 HAZARDOUS SUBSTANCES. ADDITIONAL INSTRUCTION SHALL BE PROVIDED
3 WHENEVER THE POTENTIAL FOR EXPOSURE TO SUCH SUBSTANCES IS
4 ALTERED OR WHENEVER NEW INFORMATION IS RECEIVED BY THE EMPLOYER.
5 ALL NEW EMPLOYEES SHALL BE PROVIDED WITH THE TRAINING AND
6 EDUCATION PROGRAM WITHIN THE FIRST 30 DAYS OF EMPLOYMENT.

7 (B) CONTENT OF PROGRAM.--THE EDUCATION AND TRAINING PROGRAM
8 SHALL BE PRESCRIBED BY THE DEPARTMENT AND SHALL INCLUDE, BUT IS
9 NOT LIMITED TO, THE IDENTITY, LOCATION, PROPERTIES, SAFE
10 HANDLING, EMERGENCY TREATMENT, ACUTE AND CHRONIC HEALTH EFFECTS
11 AND PROPER CLEANUP PROCEDURES WITH RESPECT TO HAZARDOUS
12 SUBSTANCES IN THAT WORKPLACE, AS WELL AS GENERAL SAFETY
13 INSTRUCTION FOR THE SAFE HANDLING OF CHEMICALS GENERALLY.

14 (C) EDUCATIONAL ASSISTANCE.--THE DEPARTMENT SHALL PROVIDE
15 EDUCATION AND TRAINING ASSISTANCE FOR THOSE EMPLOYERS WHO
16 BECAUSE OF SIZE OR OTHER PRACTICAL CONSIDERATIONS ARE UNABLE TO
17 DEVELOP SUCH PROGRAMS BY THEMSELVES.

18 SECTION 9. HEALTH AND EXPOSURE RECORDS.

19 (A) GENERAL RULE.--UPON REQUEST BY THE DEPARTMENT, EMPLOYERS
20 SHALL PROVIDE COPIES OF EMPLOYEE HEALTH AND EXPOSURE RECORDS
21 MAINTAINED BY THE EMPLOYER, INCLUDING, BUT NOT LIMITED TO, THOSE
22 RECORDS MAINTAINED AND SUPPLIED TO THE FEDERAL GOVERNMENT BY
23 EMPLOYERS AS MANDATED UNDER APPLICABLE STATE AND FEDERAL
24 STATUTES AND REGULATIONS EXCEPT AS ACCESS BY THIRD PARTIES IS
25 LIMITED BY SAID STATUTES AND REGULATIONS.

26 (B) EMPLOYEE INFORMATION.--UPON REQUEST BY THE DEPARTMENT,
27 EMPLOYERS SHALL PROVIDE THE NAMES AND ADDRESSES OF PRESENT AND
28 FORMER EMPLOYEES WHENEVER THE DEPARTMENT DETERMINES THAT THERE
29 IS A HEALTH RISK OR DISEASE RELATING TO THE EXPOSURE OF
30 EMPLOYEES TO ANY CHEMICAL SUBSTANCE. THE DEPARTMENT IS

1 AUTHORIZED TO NOTIFY EMPLOYEES WHEN NECESSARY OF PREVIOUS
2 EXPOSURE TO SUBSTANCES WHICH HAVE BEEN FOUND OR ARE BELIEVED TO
3 CAUSE SERIOUS HEALTH PROBLEMS.

4 (C) CERTAIN INFORMATION CONFIDENTIAL.--THE DEPARTMENT SHALL
5 NOT RELEASE ANY INFORMATION IN A WAY THAT IDENTIFIES
6 INDIVIDUALS. THE DEPARTMENT MAY, HOWEVER, PUBLISH ANALYSIS OF
7 REPORTS AND INFORMATION FOR SCIENTIFIC AND PUBLIC HEALTH
8 PURPOSES IF THE IDENTIFIES OF THE INDIVIDUALS CONCERNED CANNOT
9 BE ASCERTAINED AND IF INFORMATION PROTECTED BY APPLICABLE TRADE
10 SECRET LAW IS NOT DIVULGED.

11 (D) RECORDS RETENTION REQUIREMENT.--THE DEPARTMENT SHALL
12 REQUIRE AN EMPLOYER TO KEEP RECORDS OF HIS EMPLOYEES' EXPOSURE
13 TO SPECIFIC CHEMICAL SUBSTANCES WHERE SUCH RECORDS WILL BE OF
14 USE IN DETERMINING THE EFFICIENCY OF THE CURRENT THRESHOLD LIMIT
15 VALUES FOR THOSE SUBSTANCES. SUCH RECORDS MAY BE USED FOR THE
16 PURPOSE OF CONDUCTING EPIDEMIOLOGIC STUDIES IN OCCUPATIONAL
17 HEALTH.

18 (E) EMPLOYEE ACCESS.--EMPLOYEES UNDER THIS ACT SHALL HAVE
19 THE RIGHT OF ACCESS TO EXPOSURE AND MEDICAL RECORDS IN THE
20 MANNER SET FORTH BY OSHA PURSUANT TO 29 CFR PART 1910.20, AS
21 EFFECTIVE AUGUST 21, 1980.

22 SECTION 10. OUTREACH PROGRAMS.

23 (A) DUTY OF THE DEPARTMENT.--THE DEPARTMENT SHALL DEVELOP
24 AND IMPLEMENT OUTREACH PROGRAMS TO INFORM EMPLOYEES AND THE
25 GENERAL PUBLIC OF THEIR RESPECTIVE RIGHTS UNDER THIS ACT AND TO
26 EDUCATE AND INFORM EMPLOYERS, EMPLOYEES AND THE PUBLIC
27 CONCERNING HAZARDOUS AND OTHER DANGEROUS SUBSTANCES, INCLUDING,
28 BUT NOT LIMITED TO, THEIR DANGERS, THEIR PROPER HANDLING AND
29 DISPOSAL AND EMERGENCY TREATMENT. THE DEPARTMENT SHALL PREPARE
30 THIS INFORMATION IN A CLEAR AND CONCISE MANNER USING WORDS WITH

1 COMMON AND EVERYDAY MEANINGS. THE DEPARTMENT SHALL ALSO ENSURE
2 THAT ALL WRITTEN MATERIALS ARE AVAILABLE IN SPANISH, INCLUDING
3 THE FORMS FOR REPORTING SURVEYS, DEPARTMENTAL NOTICES, HAZARDOUS
4 SUBSTANCE FACT SHEETS, EDUCATIONAL AND PUBLIC INFORMATION
5 MATERIALS.

6 (B) CONTRACTS WITH OTHER AGENCIES TO DEVELOP PROGRAM.--THE
7 DEPARTMENT MAY CONTRACT WITH PUBLIC AND PRIVATE ORGANIZATIONS TO
8 DEVELOP AND IMPLEMENT THE OUTREACH AND EMPLOYEE EDUCATION
9 PROGRAMS ESTABLISHED PURSUANT TO THIS ACT.

10 (C) PUBLIC INFORMATION.--AS PART OF THE OUTREACH PROGRAMS,
11 THE DEPARTMENT SHALL DEVELOP AND MAINTAIN A SUPPLY OF
12 INFORMATIONAL LEAFLETS IN PUBLIC BUILDINGS, INCLUDING EMPLOYMENT
13 SERVICES, OFFICES OF THE OFFICE OF EMPLOYMENT SECURITY,
14 INSTITUTIONS AND FACILITIES UNDER THE SUPERVISION OR CONTROL OF
15 THE DEPARTMENT, HOSPITALS, UNION HALLS, COMMUNITY CENTERS,
16 SCHOOLS AND LOCAL AGENCIES PROVIDING SERVICES TO EMPLOYERS AND
17 EMPLOYEES. THE DEPARTMENT SHALL MAIL THESE LEAFLETS TO EMPLOYERS
18 AND SHALL PERIODICALLY DISTRIBUTE PUBLIC SERVICE ANNOUNCEMENTS
19 TO NEWSPAPERS, TELEVISION AND RADIO STATIONS THROUGHOUT THE
20 COMMONWEALTH TO FURTHER THE GOALS OF THE OUTREACH PROGRAM.

21 (D) HAZARDOUS SUBSTANCE FACT SHEETS.--THE DEPARTMENT MAY
22 PRODUCE AND DISSEMINATE TO THE PUBLIC A HAZARDOUS SUBSTANCE FACT
23 SHEET FOR ANY HAZARDOUS SUBSTANCE. THE CATEGORIES OF INFORMATION
24 CONTAINED THEREIN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
25 INFORMATION CONTAINED IN A MATERIAL SAFETY DATA SHEET. THE
26 DEPARTMENT MAY REQUIRE EMPLOYERS TO SUPPLY THE HAZARDOUS
27 SUBSTANCE FACT SHEET TO REQUESTING EMPLOYEES INSTEAD OF THE
28 SUPPLIER'S MATERIAL SAFETY DATA SHEET.

29 SECTION 11. TRADE SECRETS.

30 (A) TRADE SECRET CLAIM.--IF AN EMPLOYER BELIEVES THAT

1 DISCLOSING INFORMATION REQUIRED BY THIS ACT WILL REVEAL A TRADE
2 SECRET, HE MAY FILE WITH THE DEPARTMENT A TRADE SECRET CLAIM AS
3 HEREIN PROVIDED. NO CLAIM MAY BE GRANTED WITH RESPECT TO ANY
4 SPECIAL HAZARDOUS SUBSTANCE OR ENVIRONMENTAL HAZARD.

5 (B) CONTENT AND TIME OF FILING.--AN EMPLOYER SHALL FILE A
6 TRADE SECRET CLAIM CONCERNING A HAZARD SURVEY FORM AT THE SAME
7 TIME AS THE COMPLETED FORM IS DUE TO BE FILED WITH THE
8 DEPARTMENT. TWO COPIES OF THE HAZARD SURVEY SHALL BE SUBMITTED,
9 ONE WITH THE INFORMATION FOR WHICH A TRADE SECRET CLAIM IS BEING
10 MADE CONCEALED, AND ONE IN AN ENVELOPE MARKED "CONFIDENTIAL"
11 CONTAINING THE INFORMATION FOR WHICH A TRADE SECRET CLAIM IS
12 BEING MADE, WHICH THE DEPARTMENT, DURING THE PENDENCY OF THE
13 TRADE SECRET CLAIM, SHALL KEEP IN A LOCKED FILE OR ROOM. ON THE
14 COPIES OF THE HAZARD SURVEY SENT TO THE REGIONAL OFFICE AND
15 RETAINED ON FILE AT THE EMPLOYER'S WORKPLACE, THE EMPLOYER SHALL
16 CONCEAL ONLY THAT INFORMATION FOR WHICH HE IS MAKING A TRADE
17 SECRET CLAIM.

18 (C) REGISTRY NUMBER.--IF A SUPPLIER OR EMPLOYER CLAIMS THAT
19 LABELING A CONTAINER OR REVEALING CERTAIN INFORMATION ON A
20 MATERIAL SAFETY DATA SHEET PURSUANT TO THIS ACT WOULD REVEAL A
21 TRADE SECRET, HE SHALL FILE A TRADE SECRET CLAIM WITH THE
22 DEPARTMENT. UPON RECEIPT OF THE TRADE SECRET CLAIM, THE
23 DEPARTMENT SHALL ASSIGN A TRADE SECRET REGISTRY NUMBER TO THE
24 CLAIM, AND TRANSMIT THE NUMBER TO THE EMPLOYER OR SUPPLIER. UPON
25 RECEIPT OF THE NUMBER, THE EMPLOYER OR SUPPLIER SHALL AFFIX IT
26 TO EACH CONTAINER CONTAINING A SUBSTANCE FOR WHICH THE TRADE
27 SECRET CLAIM WAS MADE, AND SHALL AFFIX THE NUMBER TO THE HAZARD
28 SURVEY FORM AND MATERIAL SAFETY DATA SHEET DISTRIBUTED IN THIS
29 COMMONWEALTH FOR THAT SUBSTANCE.

30 (D) DETERMINATIONS AND HEARINGS.--THE DEPARTMENT SHALL MAKE

1 A DETERMINATION OF THE VALIDITY OF A TRADE SECRET CLAIM WITHIN
2 60 DAYS AFTER RECEIPT. UPON MAKING A DETERMINATION OF THE
3 VALIDITY OF A TRADE SECRET CLAIM, THE DEPARTMENT SHALL INFORM
4 THE EMPLOYER OF THE DETERMINATION BY CERTIFIED MAIL. IF THE
5 DEPARTMENT DETERMINES THAT THE EMPLOYER'S TRADE SECRET CLAIM IS
6 NOT VALID, THE EMPLOYER SHALL HAVE 30 DAYS FROM THE RECEIPT OF
7 THE DEPARTMENT'S DETERMINATION TO FILE WITH THE DEPARTMENT A
8 WRITTEN REQUEST FOR AN ADMINISTRATIVE HEARING ON THE
9 DETERMINATION. IF THE EMPLOYER DOES NOT FILE SUCH A REQUEST
10 WITHIN 30 DAYS, THE DEPARTMENT SHALL TAKE ACTION TO PROVIDE THAT
11 THE INFORMATION FOR WHICH THE TRADE SECRET CLAIM WAS MADE BE
12 DISCLOSED. AT THE HEARING THE EMPLOYER SHALL HAVE THE BURDEN TO
13 SHOW THAT THE TRADE SECRET CLAIM IS VALID. THE DEPARTMENT SHALL
14 THEREAFTER AFFIRM, REVERSE OR MODIFY ITS INITIAL DETERMINATION.
15 THE DEPARTMENT SHALL INFORM THE EMPLOYER OF ITS DECISION BY
16 CERTIFIED MAIL. ALL PROCEEDINGS UNDER THIS SECTION SHALL BE AS
17 PROVIDED IN 2 PA.C.S. § 101 ET SEQ. (RELATING TO ADMINISTRATIVE
18 LAW AND PROCEDURE).

19 (E) STANDARDS FOR DETERMINATION.--IN DETERMINING WHETHER A
20 TRADE SECRET CLAIM IS VALID, THE DEPARTMENT SHALL CONSIDER:

21 (1) THE EXTENT TO WHICH THE INFORMATION FOR WHICH THE
22 TRADE SECRET CLAIM IS MADE IS KNOWN OUTSIDE THE EMPLOYER'S
23 BUSINESS.

24 (2) THE EXTENT TO WHICH THE INFORMATION IS KNOWN BY
25 EMPLOYEES AND OTHERS INVOLVED IN THE EMPLOYER'S BUSINESS.

26 (3) THE EXTENT OF MEASURES TAKEN BY THE EMPLOYER TO
27 GUARD THE SECRECY OF THE INFORMATION.

28 (4) THE VALUE OF THE INFORMATION TO THE EMPLOYER OR THE
29 EMPLOYER'S COMPETITOR.

30 (5) THE AMOUNT OF EFFORT OR MONEY EXPENDED BY THE

1 EMPLOYER IN DEVELOPING THE INFORMATION.

2 (6) THE EASE OR DIFFICULTY WITH WHICH THE INFORMATION
3 COULD BE DISCLOSED BY ANALYTICAL TECHNIQUES, LABORATORY
4 PROCEDURES OR OTHER MEANS.

5 (F) JUDICIAL REVIEW.--ANY FINAL DECISION OF THE DEPARTMENT
6 UNDER SUBSECTION (D) SHALL BE SUBJECT TO JUDICIAL REVIEW UNDER
7 SECTION 15.

8 (G) PROVIDING OF INFORMATION TO MEDICAL PRACTITIONERS.--THE
9 DEPARTMENT, EMPLOYER OR SUPPLIER SHALL PROVIDE ANY INFORMATION
10 FOR WHICH A TRADE SECRET CLAIM IS PENDING OR HAS BEEN APPROVED
11 PURSUANT TO THIS SECTION TO A MEDICAL PRACTITIONER WHEN SUCH
12 INFORMATION IS NEEDED FOR MEDICAL DIAGNOSIS OR TREATMENT. THE
13 PARTY CLAIMING A TRADE SECRET SHALL BE RESPONSIBLE FOR INSURING
14 THAT SUCH INFORMATION IS AVAILABLE ON A 24-HOUR EMERGENCY BASIS.
15 THE PARTY CLAIMING A TRADE SECRET MAY REQUIRE THE MEDICAL
16 PRACTITIONER TO SIGN AN AGREEMENT PROTECTING THE CONFIDENTIALITY
17 OF INFORMATION DISCLOSED PURSUANT TO THIS SUBSECTION. IN THE
18 CASE OF A MEDICAL EMERGENCY, THE DEPARTMENT, EMPLOYER OR
19 SUPPLIER SHALL FIRST DISCLOSE THE TRADE SECRET TO THE MEDICAL
20 PRACTITIONER BUT MAY LATER REQUIRE A CONFIDENTIALITY AGREEMENT
21 WHEN CIRCUMSTANCES PERMIT.

22 (H) MATERIALS AVAILABLE TO PUBLIC.--ANY HAZARD SURVEY OR
23 MATERIAL SAFETY DATA SHEET CONTAINING INFORMATION FOR WHICH A
24 TRADE SECRET CLAIM IS PENDING OR HAS BEEN APPROVED SHALL BE MADE
25 AVAILABLE TO THE PUBLIC WITH THAT INFORMATION CONCEALED AND
26 REPLACED BY THE TRADE SECRET REGISTRY NUMBER.

27 (I) CONFIDENTIALITY OF INFORMATION.--THE SUBJECT OF ANY
28 TRADE SECRET CLAIM PENDING OR APPROVED SHALL BE TREATED AS
29 CONFIDENTIAL INFORMATION. EXCEPT AS PROVIDED IN SUBSECTION (G),
30 THE DEPARTMENT SHALL NOT DISCLOSE ANY CONFIDENTIAL INFORMATION

1 TO ANY PERSON EXCEPT AN OFFICER OR EMPLOYEE OF THE COMMONWEALTH
2 IN CONNECTION WITH HIS OFFICIAL DUTIES UNDER ANY LAW FOR THE
3 PROTECTION OF PUBLIC HEALTH, OR TO THE CONTRACTORS OF THE
4 COMMONWEALTH AND THEIR EMPLOYEES IF IN THE OPINION OF THE
5 DEPARTMENT THE DISCLOSURE IS NECESSARY FOR THE COMPLETION OF ANY
6 WORK CONTRACTED FOR IN CONNECTION WITH THE IMPLEMENTATION OF
7 THIS ACT.

8 (J) PENALTIES.--

9 (1) ANY OFFICER OR EMPLOYEE OF THE COMMONWEALTH,
10 CONTRACTOR TO THE COMMONWEALTH, MEDICAL PRACTITIONER OR
11 EMPLOYEE OF A COUNTY HEALTH DEPARTMENT, LOCAL FIRE DEPARTMENT
12 OR LOCAL POLICE DEPARTMENT WHO HAS ACCESS TO ANY CONFIDENTIAL
13 INFORMATION, AND WHO WILLINGLY AND KNOWINGLY DISCLOSES THE
14 CONFIDENTIAL INFORMATION TO ANY PERSON NOT AUTHORIZED TO
15 RECEIVE IT SHALL, UPON CONVICTION THEREOF, BE GUILTY OF A
16 MISDEMEANOR OF THE THIRD DEGREE.

17 (2) ANY EMPLOYER OR SUPPLIER WHO KNOWINGLY FILES A
18 FRIVOLOUS AND VEXATIOUS TRADE SECRET CLAIM SHALL BE ASSESSED
19 A CIVIL PENALTY OF NOT MORE THAN \$2,500.

20 (K) APPLICATION OF SECTION.--THE PROVISIONS OF THIS SECTION
21 SHALL NOT APPLY TO THE DISCLOSURE OF ANY INFORMATION REQUIRED
22 PURSUANT TO ANY OTHER STATE OR FEDERAL LAW.

23 SECTION 12. RISK TO PUBLIC HEALTH.

24 IF THE DEPARTMENT DETERMINES THAT ANY HAZARDOUS SUBSTANCE OR
25 OTHER CHEMICAL POSES A POTENTIAL HEALTH RISK TO THE GENERAL
26 PUBLIC IN AN AREA SURROUNDING THE WORKPLACE, IT SHALL INFORM THE
27 NEAREST PUBLIC HEALTH AGENCY, HOSPITAL AND FIRE COMPANY, AND
28 SHALL SUBMIT TO THEM COPIES OF EACH RELEVANT MATERIAL SAFETY
29 DATA SHEET OR HAZARDOUS SUBSTANCE FACT SHEET.

30 SECTION 13. PROTECTION OF EMPLOYEES.

1 (A) GENERAL RULE.--NO EMPLOYER SHALL DISCHARGE OR CAUSE TO
2 BE DISCHARGED, OR OTHERWISE DISCIPLINE OR IN ANY MANNER
3 DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS FILED
4 A COMPLAINT, ASSISTED THE DEPARTMENT WITH RESPECT TO AN
5 INSPECTION UNDER SECTION 14, HAS INSTITUTED OR CAUSED TO BE
6 INSTITUTED ANY PROCEEDING UNDER OR RELATED TO THIS ACT, HAS
7 TESTIFIED OR IS ABOUT TO TESTIFY IN ANY PROCEEDING, HAS
8 REQUESTED ANY INFORMATION OR PROPERLY REFUSED WORK UNDER SECTION
9 5, OR HAS EXERCISED ANY RIGHT AFFORDED PURSUANT TO THE
10 PROVISIONS OF THIS ACT.

11 (B) BURDEN OF PROOF.--IF THE DEPARTMENT OR THE EMPLOYEE
12 ESTABLISHES THAT WITHIN THE SIX MONTHS PRIOR TO THE ALLEGED
13 VIOLATION THE EMPLOYEE EXERCISED ANY RIGHT PROVIDED IN THIS ACT,
14 THE EMPLOYER SHALL HAVE THE BURDEN TO SHOW JUST CAUSE FOR HIS
15 ACTION BY CLEAR AND CONVINCING EVIDENCE.

16 (C) WAIVERS INVALID.--ANY WAIVER BY AN EMPLOYEE OR APPLICANT
17 FOR EMPLOYMENT OF THE BENEFITS OR REQUIREMENTS OF THIS ACT SHALL
18 BE AGAINST PUBLIC POLICY AND SHALL BE NULL AND VOID. ANY
19 EMPLOYER'S REQUEST OR REQUIREMENT THAT AN EMPLOYEE WAIVE ANY
20 RIGHTS UNDER THIS ACT AS A CONDITION OF EMPLOYMENT SHALL
21 CONSTITUTE A VIOLATION.

22 SECTION 14. COMPLAINTS AND INVESTIGATIONS.

23 (A) PROCEDURE.--THE DEPARTMENT IS HEREBY EMPOWERED TO
24 PREVENT ANY VIOLATIONS OF THIS ACT. ALL PROCEEDINGS UNDER THIS
25 SECTION WILL BE SCHEDULED AND DECISIONS RENDERED WITH ALL
26 DELIBERATE SPEED IN THE INTERESTS OF PROTECTING EMPLOYEES AND
27 MEMBERS OF THE PUBLIC FROM THE DANGERS OF CHEMICAL SUBSTANCES.
28 ANY PERSON WHO BELIEVES THERE IS A VIOLATION BY AN EMPLOYER OR
29 SUPPLIER OF THIS ACT OR ANY PART THEREOF, MAY FILE A COMPLAINT
30 WITHIN 180 DAYS OF THE VIOLATION WITH THE DEPARTMENT. THE

1 COMPLAINT SHALL BE IN WRITING, VERIFIED AND SHALL SET FORTH THE
2 GROUNDS FOR THE COMPLAINT. UPON REQUEST OF THE COMPLAINANT, HIS
3 OR HER IDENTITY SHALL NOT BE REVEALED. WITHIN 30 DAYS AFTER
4 RECEIPT OF THE COMPLAINT, THE DEPARTMENT SHALL SO NOTIFY THE
5 RESPONDENT IN WRITING AND PERMIT THE RESPONDENT TO DEMONSTRATE
6 COMPLIANCE WITH THIS ACT. IF SUCH COMPLIANCE HAS NOT BEEN
7 DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE TO THE DEPARTMENT
8 WITHIN 14 DAYS OF THE MAILING OF THE NOTIFICATION, AND IF THE
9 FACTS IN CONTROVERSY ARE SUSCEPTIBLE TO VERIFICATION BY
10 INSPECTION, AN EMPLOYEE OF THE DEPARTMENT SHALL INSPECT, AT
11 REASONABLE TIMES, THE EMPLOYER'S WORKPLACE AND ALL CONDITIONS
12 RELEVANT TO THE COMPLAINT AND SHALL, IN A REASONABLE MANNER,
13 MAKE ANY ADDITIONAL INVESTIGATION DEEMED NECESSARY FOR THE FULL
14 AND EFFECTIVE DETERMINATION OF THE EMPLOYER'S OR SUPPLIER'S
15 COMPLIANCE WITH THIS ACT. WHENEVER THE REPRESENTATIVE OF THE
16 DEPARTMENT PROCEEDING UNDER THIS SECTION IS DENIED ADMISSION TO
17 ANY PLACE OF EMPLOYMENT, HE MAY OBTAIN A WARRANT TO MAKE AN
18 INSPECTION OR INVESTIGATION OF THE PLACE OF EMPLOYMENT FROM THE
19 APPROPRIATE JUDICIAL AUTHORITY UPON A SHOWING OF THE FOLLOWING:

20 (1) THAT THE INDIVIDUAL SEEKING THE WARRANT IS A DULY
21 AUTHORIZED AGENT OF THE DEPARTMENT.

22 (2) THAT SUCH INDIVIDUAL HAS ESTABLISHED UNDER OATH OR
23 AFFIRMATION THAT THE PLACE OF EMPLOYMENT TO BE INVESTIGATED
24 IN ACCORDANCE WITH THIS SECTION IS TO BE INSPECTED TO
25 DETERMINE COMPLIANCE OR NONCOMPLIANCE WITH THE REQUIREMENTS
26 OF THIS ACT.

27 (B) PREREFUSAL WARRANT.--UPON APPLICATION TO THE APPROPRIATE
28 JUDICIAL AUTHORITY AND FOR GOOD CAUSE SHOWN, THE DEPARTMENT MAY
29 SEEK AND OBTAIN AN INSPECTION WARRANT PRIOR TO THE 14-DAY PERIOD
30 SET FORTH IN SUBSECTION (A), AND/OR PRIOR TO ANY REFUSAL BY

1 RESPONDENT TO VOLUNTARILY ADMIT A REPRESENTATIVE OF THE
2 DEPARTMENT.

3 (C) ISSUANCE AND CONTENT OF ORDER.--IF, UPON INSPECTION OR
4 INVESTIGATION OF A COMPLAINT, THE DEPARTMENT FINDS THAT A
5 RESPONDENT HAS VIOLATED ANY REQUIREMENTS OF THIS ACT, IT SHALL
6 WITHIN SEVEN DAYS ISSUE TO THE RESPONDENT AN ORDER TO COMPLY.
7 THIS ORDER SHALL BE IN WRITING AND SHALL SPECIFICALLY DESCRIBE
8 THE NATURE OF THE VIOLATION AND SHALL STATE A REASONABLE TIME
9 PERIOD, NOT TO EXCEED 90 DAYS, WITHIN WHICH THE VIOLATION MUST
10 BE CORRECTED BY THE EMPLOYER.

11 (D) CIVIL PENALTIES.--THE DEPARTMENT SHALL HAVE AUTHORITY TO
12 ASSESS ANY CIVIL PENALTIES FROM \$500 TO \$10,000 FOR EACH
13 VIOLATION OF THIS ACT, UNLESS A GREATER AMOUNT IS SPECIFIED
14 ELSEWHERE IN THIS ACT, GIVING DUE CONSIDERATION TO THE
15 APPROPRIATENESS OF THE PENALTY WITH RESPECT TO THE SIZE OF THE
16 BUSINESS OF THE EMPLOYER BEING CHARGED, THE GRAVITY OF THE
17 VIOLATION, THE GOOD FAITH OF THE RESPONDENT AND THE HISTORY OF
18 PREVIOUS VIOLATIONS. IF THE VIOLATION HAS NOT BEEN CORRECTED
19 WITHIN THE TIME PERIOD, THE DEPARTMENT MAY LEVY A FURTHER CIVIL
20 PENALTY OF NOT MORE THAN \$5,000 PER DAY FOR EACH VIOLATION.
21 CIVIL PENALTIES DUE UNDER THIS ACT SHALL BE PAID TO THE
22 DEPARTMENT FOR DEPOSIT INTO THE STATE TREASURY AND MAY BE
23 COLLECTED BY THE DEPARTMENT IN A CIVIL ACTION BROUGHT IN THE
24 APPROPRIATE COURT OF COMMON PLEAS. THE PENALTIES COLLECTED SHALL
25 BE USED TO DEFRAY THE COSTS OF ADMINISTRATION AND ENFORCEMENT OF
26 THIS ACT.

27 (E) HEARINGS.--THE RESPONDENT MAY, IN WRITING, REQUEST THE
28 DEPARTMENT TO PROVIDE A HEARING CONCERNING ANY ORDERS TO COMPLY,
29 OR PENALTIES LEVIED UPON THE EMPLOYER UNDER THIS SECTION WITHIN
30 30 DAYS OF THE RESPONDENT'S RECEIPT OF NOTICE THEREOF. THE

1 HEARING SHALL BE AFFORDED IN ACCORDANCE WITH 2 PA.C.S. § 101 ET
2 SEQ. (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE). AFTER THE
3 HEARING, THE DEPARTMENT SHALL AFFIRM, REVERSE OR MODIFY ITS
4 ORIGINAL DETERMINATION.

5 (F) PRELIMINARY RELIEF.--WHERE THE DEPARTMENT DETERMINES
6 THAT REASONABLE CAUSE EXISTS TO BELIEVE A VIOLATION HAS
7 OCCURRED, AND THAT SAID VIOLATION MAY CAUSE IMMEDIATE OR
8 IRREPARABLE HARM TO ANY EMPLOYEE OR MEMBER OF THE PUBLIC, THE
9 DEPARTMENT SHALL SEEK A PRELIMINARY OR SPECIAL INJUNCTION IN THE
10 APPROPRIATE COURT OF COMMON PLEAS. THE COURTS OF COMMON PLEAS
11 ARE HEREBY EMPOWERED TO, AND SHALL ISSUE SAID INJUNCTIVE RELIEF
12 UPON A PRIMA FACIE SHOWING BY THE DEPARTMENT OF A VIOLATION AND
13 A SHOWING BY A PREPONDERANCE OF THE EVIDENCE THAT IMMEDIATE AND
14 IRREPARABLE HARM IS LIKELY TO ENSUE.

15 (G) INTERFERENCE WITH INSPECTION.--ANY EMPLOYER OR
16 INDIVIDUAL WHO WILLFULLY OBSTRUCTS OR IMPEDES AN AUTHORIZED
17 REPRESENTATIVE OF THE DEPARTMENT FROM CARRYING OUT AN
18 INVESTIGATION OR INSPECTION PURSUANT TO THIS ACT OR WHO REFUSES
19 ENTRY TO AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT TO ANY
20 WORKPLACE WHERE SUCH INSPECTION IS AUTHORIZED BY A WARRANT,
21 SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$1,000. ANY
22 PERSON WHO GIVES ADVANCE NOTICE OF ANY INSPECTION TO BE
23 CONDUCTED UNDER THIS ACT, WITHOUT AUTHORITY FROM THE DEPARTMENT,
24 SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$1,000.

25 SECTION 15. JUDICIAL REVIEW AND ENFORCEMENT.

26 (A) APPELLATE REVIEW.--ANY PERSON OR PERSONS AGGRIEVED BY A
27 FINAL DETERMINATION OF THE DEPARTMENT PURSUANT TO SECTIONS 11
28 AND 14 MAY FILE A PETITION FOR REVIEW WITHIN 30 DAYS OF SAID
29 DETERMINATION IN THE COMMONWEALTH COURT PURSUANT TO 42 PA.C.S. §
30 763(A) (RELATING TO DIRECT APPEALS FROM GOVERNMENT AGENCIES).

1 THE DECISION OF THE DEPARTMENT SHALL NOT BE REVERSED OR MODIFIED
2 UNLESS SAID DECISION IS FOUND TO BE ARBITRARY, CAPRICIOUS,
3 ILLEGAL OR NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

4 (B) ORIGINAL ACTION.--ANY PERSON MAY BRING A CIVIL ACTION IN
5 THE APPROPRIATE COURT OF COMMON PLEAS ON HIS OWN BEHALF AGAINST
6 ANY EMPLOYER OR SUPPLIER FOR A VIOLATION OF ANY PROVISION OF
7 THIS ACT OR ANY RULE PROMULGATED PURSUANT THERETO, OR AGAINST
8 THE DEPARTMENT FOR FAILURE TO ENFORCE THE PROVISIONS OF THIS ACT
9 OR ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO. WHERE
10 THE ACTION INVOLVES THE RIGHTS OF MORE THAN ONE EMPLOYEE, ANY
11 CERTIFIED OR RECOGNIZED COLLECTIVE BARGAINING REPRESENTATIVE
12 SHALL HAVE STANDING TO SUE ON BEHALF OF SAID EMPLOYEES. THE
13 COURT MAY ISSUE, WHENEVER IT DEEMS APPROPRIATE, A PRELIMINARY,
14 PERMANENT OR SPECIAL INJUNCTION AND AWARD COMPENSATORY AND
15 LIQUIDATED DAMAGES, COSTS AND EXPENSES OF LITIGATION, INCLUDING
16 EXPERT WITNESS FEES AND REASONABLE ATTORNEY FEES.

17 SECTION 16. FALSE STATEMENTS.

18 ANY PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT,
19 REPRESENTATION OR CERTIFICATION IN ANY LIST, RECORD OR OTHER
20 DOCUMENT REQUIRED TO BE MAINTAINED PURSUANT TO THIS ACT SHALL BE
21 ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$10,000, OR SHALL BE
22 GUILTY OF A CRIMINAL OFFENSE CLASSED AS A MISDEMEANOR OF THE
23 FIRST DEGREE, OR BOTH. ANY EMPLOYER OR SUPPLIER WHO WILLFULLY OR
24 RECKLESSLY PREPARES A MATERIAL SAFETY DATA SHEET FOR THE PURPOSE
25 OF WITHHOLDING OR FALSIFYING RELEVANT INFORMATION CONCERNING THE
26 NATURE AND SEVERITY OF THE HAZARDOUS NATURE OF THE SUBSTANCE
27 SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$10,000, OR
28 SHALL BE GUILTY OF A CRIMINAL OFFENSE CLASSED AS A MISDEMEANOR
29 OF THE FIRST DEGREE, OR BOTH.

30 SECTION 17. RULES AND REGULATIONS.

1 THE DEPARTMENT SHALL, IN THE MANNER PROVIDED BY LAW,
2 PROMULGATE SUCH RULES AND REGULATIONS AND PROVIDE SUCH FORMS AND
3 WRITTEN MATERIALS AS ARE NECESSARY TO CARRY OUT THE PROVISIONS
4 OF THIS ACT.

5 SECTION 18. CONSTRUCTION OF ACT.

6 (A) NO RELEASE FROM LIABILITY.--NOTHING IN THIS ACT SHALL IN
7 ANY WAY RELIEVE AN EMPLOYER OR SUPPLIER FROM LIABILITY WITH
8 REGARD TO THE HEALTH AND SAFETY OF AN EMPLOYEE OR OTHER PERSONS
9 EXPOSED TO ANY SUBSTANCES, NOR SHALL IT RELIEVE AN EMPLOYER OR
10 SUPPLIER FROM ANY OTHER DUTY OR RESPONSIBILITY UNDER ANY OTHER
11 PROVISION OF LAW.

12 (B) CONSTRUCTION WITH FEDERAL LAW.--THIS ACT IS TO BE READ
13 IN CONJUNCTION WITH ANY PROVISION OF FEDERAL LAW PROVIDING FOR
14 THE IDENTIFICATION, LABELING OR PROVIDING OF INFORMATION
15 CONCERNING HAZARDOUS SUBSTANCES AND IS INTENDED TO SUPPLEMENT
16 SUCH FEDERAL REGULATION IN THE INTERESTS OF PROTECTING THE
17 HEALTH AND SAFETY OF CITIZENS OF THE COMMONWEALTH.

18 (C) LOCAL ORDINANCES.--THIS ACT SHALL NOT PREEMPT OR
19 SUPERSEDE ANY LOCAL ORDINANCE OR RULE CONCERNING THE SUBJECT
20 MATTER OF THIS ACT, EXCEPT TO THE EXTENT THAT SAID LOCAL
21 ORDINANCE OR RULE DIRECTLY CONFLICTS WITH THE PROVISIONS HEREIN.

22 SECTION 19. SEVERABILITY.

23 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
24 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS
25 HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS
26 OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT
27 THE INVALID PROVISION OR APPLICATION.

28 SECTION 20. FEES.

29 (A) EMPLOYER AND SUPPLIER FEE.--THE DEPARTMENT SHALL ASSESS
30 A FEE FROM ALL SUPPLIERS AND EMPLOYERS TO HELP DEFRAID THE COSTS

1 OF ADMINISTRATION OF THIS ACT. SAID FEE SHALL BE NO GREATER THAN
2 \$50: PROVIDED, THAT ANY GROUP OR CLASS OF EMPLOYERS EXEMPTED BY
3 THE DEPARTMENT FROM AUTOMATIC FILING OF HAZARD AND/OR
4 ENVIRONMENTAL SURVEY FORMS, PURSUANT TO SECTION 3(G), SHALL ALSO
5 BE EXEMPTED FROM PAYING ANY FEE UNDER THIS SUBSECTION.

6 (B) TRADE SECRET CLAIMS.--THE DEPARTMENT SHALL HAVE THE
7 AUTHORITY TO ASSESS A FEE NO GREATER THAN \$50 FOR THE FILING OF
8 EACH TRADE SECRET CLAIM MADE PURSUANT TO SECTION 11.

9 SECTION 21. APPROPRIATION.

10 THE SUM OF \$2,900,000, OR AS MUCH THEREOF AS MAY BE
11 NECESSARY, IS HEREBY APPROPRIATED FROM THE GENERAL FUND TO THE
12 DEPARTMENT OF HEALTH TO CARRY OUT THE PURPOSE OF THIS ACT.

13 SECTION 22. EFFECTIVE DATE.

14 (A) SECTIONS 4(B), 5(C)(2), (D) AND 6 SHALL TAKE EFFECT IN
15 ONE YEAR AS TO THE LABELING OF CONTAINERS OF HAZARDOUS
16 SUBSTANCES, AND IN TWO YEARS AS TO LABELING OF ALL OTHER
17 CONTAINERS.

18 (B) THE OBLIGATION OF THE DEPARTMENT TO CREATE LISTS OF
19 HAZARDOUS SUBSTANCES SHALL TAKE EFFECT IMMEDIATELY, AND THE
20 DEPARTMENT SHALL MAIL TO EACH EMPLOYER COPIES OF SAID LISTS AND
21 THE HAZARDOUS SURVEY FORMS WITHIN SIX MONTHS.

22 (C) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN SIX
23 MONTHS.