

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1236

Session of
1983

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HOEFFEL AND KOWALYSHYN JUNE 21, 1983

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 19, 1984

AN ACT

1 ~~Requiring chemical identification of substances in the community~~ <—
2 ~~and on employer premises; requiring the posting of the~~
3 ~~identity of these substances by employers and the labeling of~~
4 ~~chemicals; requiring information and safety data on chemicals~~
5 ~~to be given to the Department of Health, members of the~~
6 ~~community, and employees; requiring employers to operate~~
7 ~~educational programs relating to hazardous substances;~~
8 ~~providing for further duties of the Department of Health, for~~
9 ~~complaint procedures, for investigations, for compliance~~
10 ~~orders and the enforcement thereof; and providing penalties.~~

11 ~~It is hereby declared that there exists within the~~
12 ~~Commonwealth of Pennsylvania a danger to employees, their~~
13 ~~families and to the general public because of exposure to~~
14 ~~chemicals introduced into the workplace and into the general~~
15 ~~environment. Employees may encounter exposure to these~~
16 ~~substances during the course and scope of their employment and~~
17 ~~the general public may encounter exposure due to the~~
18 ~~transportation, use and subsequent disposal within the~~
19 ~~community. Serious health problems may be caused to individuals~~

1 ~~because of this exposure; due to the nature of these substances,~~
2 ~~these health problems may not become evident until many years~~
3 ~~after initial exposure.~~

4 ~~It is therefore declared to be the policy of the Commonwealth~~
5 ~~that employers within the Commonwealth and chemical suppliers~~
6 ~~doing business within the Commonwealth have a duty to make~~
7 ~~available to employees and to the general public the identity of~~
8 ~~chemicals used in the workplace, and to make information~~
9 ~~available as to the known or suspected health hazards posed by~~
10 ~~the use of or exposure to hazardous substances. Employees, their~~
11 ~~families and the general public have a right to know the~~
12 ~~identity of chemicals they may be exposed to, the potential~~
13 ~~health hazards that exist and the symptoms that may be~~
14 ~~experienced because of exposure.~~

15 ~~It is further declared that employees and the general public~~
16 ~~themselves are frequently in the best position to discover~~
17 ~~serious health problems, provided that they are aware of the~~
18 ~~scientific name and the nature of the substances they are~~
19 ~~exposed to. Employees, their families and the general public~~
20 ~~have an inherent right to know about the known and suspected~~
21 ~~health hazards which may result from exposure to hazardous~~
22 ~~substances, so that they may make knowledgeable and reasoned~~
23 ~~decisions with respect to the continued personal costs of their~~
24 ~~employment or residence at a particular place, and the need for~~
25 ~~corrective action.~~

26 ~~It is further declared that, because of close or continuing~~
27 ~~contact with hazardous substances, the workplace often provides~~
28 ~~an early warning mechanism for the rest of the environment and~~
29 ~~the general public. It is therefore the intent of this~~
30 ~~legislation to ensure that employees, their families and the~~

1 ~~general public be given current information concerning the~~
2 ~~nature of the hazardous substances with which they may come in~~
3 ~~contact and full information concerning the known and suspected~~
4 ~~health hazards of these hazardous substances.~~

5 ~~It is further declared that availability of detailed~~
6 ~~information concerning the identity and nature of chemicals to~~
7 ~~local police, fire and health officials will greatly aid such~~
8 ~~authorities in responding to local emergencies such as chemical~~
9 ~~fires, accidental spills, industrial accidents, and outbreaks of~~
10 ~~health problems among members of the public.~~

11 ~~It is further declared that the swift and effective~~
12 ~~enforcement of the provisions of this act is vital to insure~~
13 ~~that the health and safety of employees and members of the~~
14 ~~public is protected.~~

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

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

29 IT IS THEREFORE DECLARED TO BE THE POLICY OF THE COMMONWEALTH
30 THAT EMPLOYERS WITHIN THE COMMONWEALTH AND CHEMICAL SUPPLIERS
31 DOING BUSINESS WITHIN THE COMMONWEALTH HAVE A DUTY TO MAKE
32 AVAILABLE TO EMPLOYEES AND TO THE GENERAL PUBLIC THE IDENTITY OF
33 CHEMICALS USED IN THE WORKPLACE, AND TO MAKE INFORMATION
34 AVAILABLE AS TO THE KNOWN OR SUSPECTED HEALTH HAZARDS POSED BY

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

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

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

1 IT IS FURTHER DECLARED THAT THE SWIFT AND EFFECTIVE
2 ENFORCEMENT OF THE PROVISIONS OF THIS ACT IS VITAL TO ENSURE
3 THAT THE HEALTH AND SAFETY OF EMPLOYEES AND MEMBERS OF THE
4 PUBLIC IS PROTECTED.

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28 THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA
29 HEREBY ENACTS AS FOLLOWS:

30 ~~Section 1. Short title.~~

<—

~~This act shall be known and may be cited as the Worker and
Community Right to Know Act.~~

~~Section 2. Definitions.~~

~~The following words and phrases when used in this act shall
have the meanings given to them in this section unless the
context clearly indicates otherwise:~~

~~"Article." A manufactured item which is formed to a specific
shape or design during manufacture, which has end use functions
dependent in whole or in part upon its shape or design during
end use, and which does not release, or otherwise result in
exposure to, a hazardous chemical under normal conditions of
use.~~

~~"Chemical." Any element, chemical compound or mixture of
elements or compounds, but shall not include an article as
defined herein, food, cosmetics, tobacco, or products which are
primarily intended for sale on the retail market to the general
public and are sealed in the packages to be used therewith.~~

~~"Chemical Abstracts Service number." The unique
identification number assigned by the Chemical Abstracts Service
to chemicals.~~

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

~~"Common name." Any designation or identification such as a
generic name, by which a substance is commonly or generally
known, other than by its chemical name.~~

~~"Container." A receptacle used to hold a liquid, solid or
gaseous substance including, but not limited to, bottles,
pipelines, bags, barrels, boxes, cans, cylinders, drums,~~

~~cartons, vessels, vats and stationary or mobile storage tanks.~~
~~The term does not include containers of one gallon or less into~~
~~which 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 or containers which are~~
~~primarily designed to be sold on the retail market for use by~~
~~the general public.~~

~~"Department."—The Department of Health.~~

~~"Employee."—Any person currently or formerly working for an~~
~~employer, except domestic or casual laborers employed at the~~
~~employer's place of residence.~~

~~"Employee representative."—An individual or organization~~
~~authorized by an employee or employees to exercise his or her or~~
~~their rights to request information under this act. A recognized~~
~~or certified collective bargaining agent shall be considered to~~
~~be an employee representative without regard to individual~~
~~employee authorization.~~

~~"Employer."—Any individual, partnership, corporation or~~
~~association doing business in the Commonwealth, including the~~
~~Commonwealth, its political subdivisions including school~~
~~districts and any officer, board, commission, agency, authority,~~
~~or other instrumentality thereof.~~

~~"Environmental hazard."—Any substance, emission or discharge~~
~~determined by the department to be a hazardous substance and~~
~~which is likely to pose a danger if released into the~~
~~environment, and for which a trade secret claim shall not be~~
~~granted.~~

~~"Exposure."—Exposure shall refer to an employee being~~
~~subjected to a chemical through any route of entry and includes~~
~~past exposure and potential exposure without regard to the use~~

1 ~~of personal protective equipment.~~

2 ~~"Hazardous substance."— Any substance or mixture designated~~
3 ~~as hazardous by the department pursuant to section 3.~~

4 ~~"Hazardous substance fact sheet."— A written document~~
5 ~~prepared by the department for the purpose of transmitting~~
6 ~~information about a hazardous substance to employers, employees~~
7 ~~and members of the general public.~~

8 ~~"Label."— A sign, emblem, sticker, or marker affixed to or~~
9 ~~stenciled onto a container listing the information required~~
10 ~~pursuant to section 6.~~

11 ~~"Material safety data sheet."— A written document prepared by~~
12 ~~a supplier or employer in conformity with the requirements set~~
13 ~~forth in this act, for the purpose of transmitting information~~
14 ~~concerning a chemical.~~

15 ~~"Mixture."— A combination of two or more chemicals not~~
16 ~~involving a chemical reaction.~~

17 ~~"NIOSH Registry of Toxic Effects of Chemical Substances."~~
18 ~~The on line data base of the National Institute for Occupational~~
19 ~~Safety and Health Registry of Toxic Effects of Chemical~~
20 ~~Substances.~~

21 ~~"OSHA."— The Federal Occupational Safety and Health~~
22 ~~Administration.~~

23 ~~"Research and development laboratory."— A specially~~
24 ~~designated area used primarily for research, development and~~
25 ~~testing activity, and not primarily involved in the production~~
26 ~~of goods for commercial sale, in which hazardous substances are~~
27 ~~used by or under the direct supervision of a technically~~
28 ~~qualified person.~~

29 ~~"Special hazardous substance."— A hazardous substance so~~
30 ~~designated by the department because its particular toxicity,~~

1 ~~tumorigenicity, mutagenicity, reproductive toxicity,~~
2 ~~flammability, explosiveness, corrosivity, or reactivity pose a~~
3 ~~special hazard to health and safety, and for which a trade~~
4 ~~secret claim shall not be granted.~~

5 ~~"Supplier." Any individual, partnership, corporation,~~
6 ~~association or other person, inside or outside this~~
7 ~~Commonwealth, who manufactures, supplies, imports or~~
8 ~~distributes any chemical for sale, distribution or use within~~
9 ~~the Commonwealth.~~

10 ~~"Trade name." Any designation or identification such as a~~
11 ~~code name or number, or a brand name, used by an employer or~~
12 ~~supplier to identify a chemical other than by its chemical or~~
13 ~~common name.~~

14 ~~"Trade secret." Any formula, plan, pattern, process,~~
15 ~~production data, information, or compilation of information,~~
16 ~~which is not patented, which is known only to an employer and a~~
17 ~~limited number of other individuals, and which is used in the~~
18 ~~fabrication and production of an article of trade or service,~~
19 ~~and which gives the employer possessing it a competitive~~
20 ~~advantage over businesses who do not possess it, or the secrecy~~
21 ~~of which is certified by an appropriate official of the Federal~~
22 ~~Government as necessary for national defense purposes.~~

23 ~~"Work area." Any room, section of a room, or other immediate~~
24 ~~area within a workplace where one or more workers are based for~~
25 ~~the regular performance of their duties.~~

26 ~~"Workplace." Any building or work area or contiguous group~~
27 ~~of buildings or work areas in this Commonwealth used by the~~
28 ~~employer on a permanent or temporary basis to conduct business.~~

29 ~~Section 3. Hazard surveys.~~

30 ~~(a) Hazardous substance list. The department shall compile~~

~~a list of hazardous substances which shall include, but not be limited to, the substances found in the latest compilation or issue of any one of the following lists:~~

~~(1) Federal Environmental Protection Agency (EPA) list of toxic pollutants and hazardous substances prepared pursuant to sections 307 and 311 of the Federal Clean Water Act of 1977 (33 U.S.C. §§ 1317, 1321).~~

~~(2) EPA list of hazardous air pollutants prepared pursuant to section 112 of the Federal Clean Air Act (42 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 shall be updated or expanded by the department as necessary in light of new scientific evidence and knowledge. A copy of each list and any modifications thereof shall be transmitted to every employer as necessary, together with hazard survey forms.~~

~~(b) Special and environmental hazards. The department shall designate those hazardous substances which shall be considered special hazardous substances and those which shall be considered environmental hazards. The department shall compile separate lists of the special hazardous substances and the environmental hazards. These lists shall be updated, transmitted to employers, and posted by employers in the same manner as the hazardous substance list.~~

~~(c) Hazard survey form. Every employer shall, upon the form supplied by the department, fill out a hazard survey for each workplace providing certain information for each hazardous substance found in said workplace: Provided, That the department may by regulation exempt employers or certain classes thereof from reporting any hazardous substance where it is present in the workplace in an amount less than 55 gallons or 500 pounds: Provided, further, That special hazardous substances and~~

~~environmental hazards shall be reported in any amount.~~

~~(d) Contents of form. The hazard survey form shall include but not be limited to:~~

~~(1) The chemical name of the substance and its chemical abstracts service number or, if none exists, its common name or trade name as provided on the department's hazardous substance lists.~~

~~(2) The maximum quantity of the substance present during a year.~~

~~(e) Environmental hazards. Every employer shall further, upon a form supplied by the department, fill out an environmental hazard survey for each workplace. For each environmental hazard on the list, the employer shall supply the following additional information on the hazard survey form:~~

~~(1) The total stack or point source emissions of the substance.~~

~~(2) The total estimated fugitive or nonpoint source emissions of the substance.~~

~~(3) The total discharge of the substance into the surface or groundwater, the treatment methods, and the raw wastewater volume and loadings.~~

~~(4) The total discharge of the substance into publicly owned treatment works.~~

~~(5) The quantity, and methods of disposal, of any wastes containing the substance, the method of on site storage of these wastes, the location or locations of the final disposal sites for these wastes and the identity of the hauler of the wastes.~~

~~(f) Submission to the department. Within 90 days of receipt of the forms from the department, every employer shall submit~~

~~the completed hazard survey form and environmental survey form to the department in Harrisburg, and to the department's regional office which is responsible for the area in which that workplace is located. Copies of the survey forms shall be kept on file at the employer's principal place of business and at each workplace where employees work. The department shall require every employer to update the hazard survey and the environmental survey for each workplace every two years.~~

~~(g) Exemptions from filing. The department may, by regulation, exempt certain groups or classes of employers from filing or updating hazard survey forms and/or environmental survey forms, taking into account the quantity of hazards substances and/or environmental hazards the employer is likely to possess or discharge, the likely danger to the surrounding community posed by said employers, and the effect that the absence of such information may have on future epidemiological or other studies. Provided further, That upon request by anyone to the department for hazard information normally contained on one or more of said survey forms for a specific employer, the department shall immediately notify said employer, who shall have 20 days in which to complete the required forms and file it with the department.~~

~~(h) Retention of surveys. The department shall maintain a file of all completed hazard surveys received from employers. Each survey received shall be retained by the department for 30 years. The department shall also retain for 30 years at least one material safety data sheet for each hazardous substance together with revisions thereof.~~

~~Section 4. Obligation of suppliers.~~

~~(a) Labeling. Every supplier, as a condition of doing~~

~~business in this Commonwealth, shall insure that the container of any chemical which is delivered to a point within this Commonwealth or which is produced within this Commonwealth is clearly labeled in the manner required by section 6.~~

~~(b) Provisions of material safety data sheet. Every supplier, as a condition of doing business in this Commonwealth, shall provide a material safety data sheet for each chemical which is delivered to a point within this Commonwealth. One copy of the material safety data sheet shall be transmitted to the recipient of said substance at the time of delivery, and one copy shall be provided to the department. The supplier shall be required to supply new sheets to the department only as the sheets are revised or new information is discovered.~~

~~(c) Contents of material safety data sheets. The information in the material safety data sheets shall be at least as complete as that maintained both by the National Library of Medicine computer files and the latest edition of the National Fire Protection Association's Fire Protection Guide on Hazardous Materials. It shall include, but not be limited to, the following information:~~

~~(1) The chemical name, the Chemical Abstracts Service number, the trade name, common names, and any other names under which said substance is regulated by another state or Federal agency.~~

~~(2) The chemical name, common name and Chemical Abstracts Service number of every chemical contained in the substance which comprises 3% or more of the substance, except that hazardous substances shall be listed if they comprise 1% or more of the substance, and all special hazardous substances shall be listed.~~

~~(3) A reference to all relevant information on the hazardous substance from the NIOSH Registry of Toxic Effects of Chemical Substances.~~

~~(4) The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, melting point, physical state, color and odorous properties at standard conditions of temperature and pressure.~~

~~(5) 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.~~

~~(6) The hazards, if any, posed by the substance, including its toxicity, tumorigenicity, mutagenicity, reproductive toxicity, flammability, explosiveness, corrosivity and reactivity, including specific information on its reactivity with water.~~

~~(7) A description, in nontechnical language, of the acute and chronic health effects of exposure to the substance, including the signs and symptoms of exposure, and medical conditions that might be aggravated by exposure.~~

~~(8) The permissible exposure level, threshold limit value, short term, ceiling, and other established limit values as set by OSHA, National Institute of Occupational Safety and Health, American Industrial Hygiene Association, and American Conference of Governmental Industrial Hygienists.~~

~~(9) The potential routes and symptoms of exposure to the hazardous substance.~~

~~(10) Emergency first aid procedures in case of inhalation, swallowing, eye splashes, and skin contamination,~~

1 including a telephone number to be called day or night in an
2 emergency, and any special information needed by medical
3 practitioners treating persons.

4 (11) The appropriate emergency and first aid procedures
5 for spills, fires, potential explosions, and accidental or
6 unplanned emissions involving the hazardous substance.

7 (12) Recommended waste disposal method.

8 (13) Personal protective equipment to be worn or used
9 when handling or otherwise coming in contact with the
10 substance, and any special precautions, recommended
11 engineering controls or work practices to be used in handling
12 the substance.

13 (14) A description of the extent of testing performed on
14 the substance and an indication of what aspects have not been
15 tested.

16 (15) A description of the known or possible synergistic
17 or additive effects caused by exposure to this substance and
18 to other substances over the same period of time.

19 (16) For mixtures, a description of any dangers or
20 hazards created by the mixture that are greater than and/or
21 would not be otherwise disclosed by the hazardous substance
22 fact sheets for the constituent chemical substances.

23 (17) The name, address and telephone number of the
24 manufacturer of the chemical.

25 (18) Date of preparation or last revision of the sheet.

26 (d) Chemical identification sheet. An employer or supplier
27 may, for convenience, provide the information requested in
28 subsection (c)(2) by affixing a chemical identification sheet
29 containing said information to an already existing MSDS, and it
30 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 discovers any relevant new information regarding a hazardous substance, the employer shall make such information available to the department and to all employers to which the supplier provides said substance. The employer shall in turn make such information available to employees and the employees' representatives, upon receipt of such new information.~~

~~(c) Copy of data available to employees.— An employer shall furnish, upon the request of an employee or employee representative, any of the following:~~

~~(1) Any hazard survey and/or environmental hazard for that workplace.~~

~~(2) Any material safety data sheet for any chemical present in any of the employer's workplaces.~~

~~Said information shall be furnished within 72 hours of the request therefore. If the information is not provided within 72 hours, the employee may refuse to work, without discipline, loss of pay, or other retaliation by the employer, with any hazardous substance described in the requested written materials until they are made available. It is the responsibility of the employer to insure that an adequate number of copies of the~~

~~hazard surveys, material safety data sheets and hazardous substance fact sheets are available to meet the demands of employees.~~

~~(d) Information in the work area. Every employer shall post in every work area the material safety data sheet for every substance to which the employees working in said work area may be exposed. This posting shall be in such a manner and in such numbers as to give every employee in that work area easy and unhindered access to the material safety data sheets without permission or intervention of management or any supervisor.~~

~~(e) Limitation on fees. All material safety data sheets, hazard surveys, educational and other materials shall be furnished by an employer to an employee or employee representative at no cost to the employee or employee representative. If the employee making the request has requested and received the same information about the same substance within the preceding 12 months, the employer may impose a reasonable charge not to exceed the costs of reproduction for that information. No fee shall be charged if the employee's job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided. In no event shall the employer charge fees pursuant to requests by a certified or recognized bargaining agent.~~

~~(f) Public access. Any person may request from the department a copy of the hazard survey for a workplace or employer, and any material safety data sheet or hazardous substance fact sheet on file and the department shall transmit the requested material within 30 days: Provided, That if a requested hazard survey form is not in the department's~~

~~possession by operation of section 3(g), the department may respond within 45 days. Any request shall be treated by the department as confidential as to the name and address of the requestor. The department shall also make materials for its respective regions immediately available during business hours from its regional offices. Materials shall be available at a fee not to exceed the cost of reproducing them.~~

~~Section 6. Labeling.~~

~~(a) Containers. The employer shall ensure that the container of each chemical in each workplace is labeled with the following information concerning the substance or substances contained therein:~~

~~(1) The chemical name and Chemical Abstracts Service number.~~

~~(2) A hazard warning as provided in subsection (f).~~

~~(3) The name, address and telephone number of the manufacturer of the substance.~~

~~The employer shall ensure that each label is prominently affixed to the container or the piping system and displayed in such a manner that employees can easily identify the chemical in that container. These labeling requirements may be altered only in accordance with subsections (c) and (e) or section 11. The employer shall not remove or deface existing labels on incoming containers of chemicals unless the container is immediately relabeled with the required information. The employer need not affix new labels to comply with this section if existing labels already convey the required information.~~

~~(b) Mixtures. If a container contains a mixture, it shall have a label that identifies the mixture by its common name. If no common name exists, the label may use a trade name. The label~~

1 ~~shall further contain the chemical name and Chemical Abstract~~
2 ~~Service number of every hazardous substance contained in the~~
3 ~~mixture. The provisions of this subsection shall not apply to a~~
4 ~~hazardous substance constituting less than 1% of a mixture~~
5 ~~unless the substance is a special hazardous substance.~~

6 ~~(c) Pipelines. The content of a pipeline system shall be~~
7 ~~identified by labels applied on the pipe body at all valves,~~
8 ~~outlets, vents, drains and sample connections designed to allow~~
9 ~~the release of a substance from the pipeline.~~

10 ~~(d) Research and development laboratories. Employers may~~
11 ~~label containers in a research and development laboratory by~~
12 ~~means of a code of number system, if the code or number system~~
13 ~~will enable a employee to readily make a cross reference to~~
14 ~~documentary material retained on file by the employer at the~~
15 ~~facility which will provide the employee with the chemical name~~
16 ~~and Chemical Abstracts Service number of the substance within~~
17 ~~the container, except as provided in subsection (c). The code of~~
18 ~~number system shall be designed to allow the employee free and~~
19 ~~ready access to all times to the chemical name and Chemical~~
20 ~~Abstracts Service number of the substance in the container,~~
21 ~~shall be designed to allow the employee access to this~~
22 ~~information without the permission or assistance of management~~
23 ~~and shall be available to the employee in close proximity to his~~
24 ~~specific job location or locations.~~

25 ~~(e) Common name usage. Within one year after the date this~~
26 ~~act becomes law, the department shall adopt a list of~~
27 ~~substances, the containers of which may be labeled with a common~~
28 ~~or trade name and Chemical Abstracts Service number of their~~
29 ~~contents. This list shall be amended by the department as~~
30 ~~needed. The department shall include on the list adopted~~

~~pursuant to this subsection only substances which are widely or more effectively recognized by this common name. With respect to any substance listed in the NIOSH registry of toxic effects of chemical substances, the department shall only permit the use of any common or trade name listed in said registry. An employer shall provide the chemical name of a substance in a container labeled pursuant to this subsection within 72 hours of the request thereof.~~

~~(f) Hazard warnings. Each employer shall ensure that container labels provide a warning as to the specific nature of hazard arising from the substance in the container. The hazard warnings shall be given in conformity with one of the nationally recognized and accepted systems of providing such warnings and shall be consistent throughout the workplace.~~

~~(g) Exemptions. This section does not require labeling of containers which contain:~~

~~(1) Any pesticide as such term is defined in the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 135 et seq.).~~

~~(2) Any food, drug or cosmetic as such terms are defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.).~~

~~(3) Any distilled spirits (beverage alcohols), wine or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. § 201 et seq.): Provided said containers are labeled as required under applicable Federal laws and regulations.~~

~~Section 7. Notice.~~

~~Every employer shall prominently post in every workplace, in a location or locations where notices to employees are normally~~

1 posted.

2 ~~(1) Lists of all hazardous substances and special~~
3 ~~hazardous substances found in that workplace and all~~
4 ~~environmental hazards emitted or discharged therefrom.~~

5 ~~(2) Notification to employees and their representatives~~
6 ~~of their rights under this act.~~

7 ~~(3) All other notices required by the department to be~~
8 ~~posted.~~

9 ~~Section 8. Employee education program.~~

10 ~~(a) Requirement. Every employer shall institute an annual~~
11 ~~education and training program for employees exposed to~~
12 ~~hazardous substances. Additional instruction shall be provided~~
13 ~~whenever the potential for exposure to such substances is~~
14 ~~altered or whenever new information is received by the employer.~~
15 ~~All new employees shall be provided with the training and~~
16 ~~education program within the first 30 days of employment.~~

17 ~~(b) Content of program. The education and training program~~
18 ~~shall be prescribed by the department and shall include, but is~~
19 ~~not limited to, the identity, location, properties, safe~~
20 ~~handling, emergency treatment, acute and chronic health effects~~
21 ~~and proper cleanup procedures with respect to hazardous~~
22 ~~substances in that workplace, as well as general safety~~
23 ~~instruction for the safe handling of chemicals generally.~~

24 ~~(c) Educational assistance. The department shall provide~~
25 ~~education and training assistance for those employers who~~
26 ~~because of size or other practical considerations are unable to~~
27 ~~develop such programs by themselves.~~

28 ~~Section 9. Health and exposure records.~~

29 ~~(a) General rule. Upon request by the department, employers~~
30 ~~shall provide copies of employee health and exposure records~~

1 ~~maintained by the employer, including, but not limited to, those~~
2 ~~records maintained and supplied to the Federal government by~~
3 ~~employers as mandated under applicable State and Federal~~
4 ~~statutes and regulations except as access by third parties is~~
5 ~~limited by said statutes and regulations.~~

6 ~~(b) Employee information. Upon request by the department,~~
7 ~~employers shall provide the names and addresses of present and~~
8 ~~former employees whenever the department determines that there~~
9 ~~is a health risk or disease relating to the exposure of~~
10 ~~employees to any chemical substance. The department is~~
11 ~~authorized to notify employees when necessary of previous~~
12 ~~exposure to substances which have been found or are believed to~~
13 ~~cause serious health problems.~~

14 ~~(c) Certain information confidential. The department shall~~
15 ~~not release any information in a way that identifies~~
16 ~~individuals. The department may, however, publish analysis of~~
17 ~~reports and information for scientific and public health~~
18 ~~purposes if the identifies of the individuals concerned cannot~~
19 ~~be ascertained and if information protected by applicable trade~~
20 ~~secret law is not divulged.~~

21 ~~(d) Records retention requirement. The department shall~~
22 ~~require an employer to keep records of his employees' exposure~~
23 ~~to specific chemical substances where such records will be of~~
24 ~~use in determining the efficiency of the current threshold limit~~
25 ~~values for those substances. Such records may be used for the~~
26 ~~purpose of conducting epidemiologic studies in occupational~~
27 ~~health.~~

28 ~~(e) Employee access. Employees under this act shall have~~
29 ~~the right of access to exposure and medical records in the~~
30 ~~manner set forth by OSHA pursuant to 29 CFR Part 1910.20, as~~

1 ~~effective August 21, 1980.~~

2 ~~Section 10. Outreach programs.~~

3 ~~(a) Duty of the department. The department shall develop~~
4 ~~and implement outreach programs to inform employees and the~~
5 ~~general public of their respective rights under this act and to~~
6 ~~educate and inform employers, employees and the public~~
7 ~~concerning hazardous and other dangerous substances, including,~~
8 ~~but not limited to, their dangers, their proper handling and~~
9 ~~disposal and emergency treatment. The department shall prepare~~
10 ~~this information in a clear and concise manner using words with~~
11 ~~common and everyday meanings. The department shall also ensure~~
12 ~~that all written materials are available in Spanish, including~~
13 ~~the forms for reporting surveys, departmental notices, hazardous~~
14 ~~substance fact sheets, educational and public information~~
15 ~~materials.~~

16 ~~(b) Contracts with other agencies to develop program. The~~
17 ~~department may contract with public and private organizations to~~
18 ~~develop and implement the outreach and employee education~~
19 ~~programs established pursuant to this act.~~

20 ~~(c) Public information. As part of the outreach programs,~~
21 ~~the department shall develop and maintain a supply of~~
22 ~~informational leaflets in public buildings, including employment~~
23 ~~services, offices of the Office of Employment Security,~~
24 ~~institutions and facilities under the supervision or control of~~
25 ~~the department, hospitals, union halls, community centers,~~
26 ~~schools and local agencies providing services to employers and~~
27 ~~employees. The department shall mail these leaflets to employers~~
28 ~~and shall periodically distribute public service announcements~~
29 ~~to newspapers, television and radio stations throughout the~~
30 ~~Commonwealth to further the goals of the outreach program.~~

~~(d) Hazardous substance fact sheets. The department may produce and disseminate to the public a hazardous substance fact sheet for any hazardous substance. The categories of information contained therein shall include, but not be limited to, the information contained in a material safety data sheet. The department may require employers to supply the hazardous substance fact sheet to requesting employees instead of the supplier's material safety data sheet.~~

~~Section 11. Trade secrets.~~

~~(a) Trade secret claim. If an employer believes that disclosing information required by this act will reveal a trade secret, he may file with the department a trade secret claim as herein provided. No claim may be granted with respect to any special hazardous substance or environmental hazard.~~

~~(b) Content and time of filing. An employer shall file a trade secret claim concerning a hazard survey form at the same time as the completed form is due to be filed with the department. Two copies of the hazard survey shall be submitted, one with the information for which a trade secret claim is being made concealed, and one in an envelope marked "Confidential" containing the information for which a trade secret claim is being made, which the department, during the pendency of the trade secret claim, shall keep in a locked file or room. On the copies of the hazard survey sent to the regional office and retained on file at the employer's workplace, the employer shall conceal only that information for which he is making a trade secret claim.~~

~~(c) Registry number. If a supplier or employer claims that labeling a container or revealing certain information on a material safety data sheet pursuant to this act would reveal a~~

~~trade secret, he shall file a trade secret claim with the department. Upon receipt of the trade secret claim, the department shall assign a trade secret registry number to the claim, and transmit the number to the employer or supplier. Upon receipt of the number, the employer or supplier shall affix it to each container containing a substance for which the trade secret claim was made, and shall affix the number to the hazard survey form and material safety data sheet distributed in this Commonwealth for that substance.~~

~~(d) Determinations and hearings. The department shall make a determination of the validity of a trade secret claim within 60 days after receipt. Upon making a determination of the validity of a trade secret claim, the department shall inform the employer of the determination by certified mail. If the department determines that the employer's trade secret claim is not valid, the employer shall have 30 days from the receipt of the department's determination to file with the department a written request for an administrative hearing on the determination. If the employer does not file such a request within 30 days, the department shall take action to provide that the information for which the trade secret claim was made be disclosed. At the hearing the employer shall have the burden to show that the trade secret claim is valid. The department shall thereafter affirm, reverse or modify its initial determination. The department shall inform the employer of its decision by certified mail. All proceedings under this section shall be as provided in 2 Pa.C.S. § 101 et seq. (relating to administrative law and procedure).~~

~~(e) Standards for determination. In determining whether a trade secret claim is valid, the department shall consider:~~

1 ~~(1) The extent to which the information for which the~~
2 ~~trade secret claim is made is known outside the employer's~~
3 ~~business.~~

4 ~~(2) The extent to which the information is known by~~
5 ~~employees and others involved in the employer's business.~~

6 ~~(3) The extent of measures taken by the employer to~~
7 ~~guard the secrecy of the information.~~

8 ~~(4) The value of the information to the employer or the~~
9 ~~employer's competitor.~~

10 ~~(5) The amount of effort or money expended by the~~
11 ~~employer in developing the information.~~

12 ~~(6) The ease or difficulty with which the information~~
13 ~~could be disclosed by analytical techniques, laboratory~~
14 ~~procedures or other means.~~

15 ~~(f) Judicial review. Any final decision of the department~~
16 ~~under subsection (d) shall be subject to judicial review under~~
17 ~~section 15.~~

18 ~~(g) Providing of information to medical practitioners. The~~
19 ~~department, employer or supplier shall provide any information~~
20 ~~for which a trade secret claim is pending or has been approved~~
21 ~~pursuant to this section to a medical practitioner when such~~
22 ~~information is needed for medical diagnosis or treatment. The~~
23 ~~party claiming a trade secret shall be responsible for insuring~~
24 ~~that such information is available on a 24 hour emergency basis.~~
25 ~~The party claiming a trade secret may require the medical~~
26 ~~practitioner to sign an agreement protecting the confidentiality~~
27 ~~of information disclosed pursuant to this subsection. In the~~
28 ~~case of a medical emergency, the department, employer or~~
29 ~~supplier shall first disclose the trade secret to the medical~~
30 ~~practitioner but may later require a confidentiality agreement~~

1 ~~when circumstances permit.~~

2 ~~(h) Materials available to public. Any hazard survey or~~
3 ~~material safety data sheet containing information for which a~~
4 ~~trade secret claim is pending or has been approved shall be made~~
5 ~~available to the public with that information concealed and~~
6 ~~replaced by the trade secret registry number.~~

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

18 ~~(j) Penalties.—~~

19 ~~(1) Any officer or employee of the Commonwealth,~~
20 ~~contractor to the Commonwealth, medical practitioner or~~
21 ~~employee of a county health department, local fire department~~
22 ~~or local police department who has access to any confidential~~
23 ~~information, and who willingly and knowingly discloses the~~
24 ~~confidential information to any person not authorized to~~
25 ~~receive it shall, upon conviction thereof, be guilty of a~~
26 ~~misdemeanor of the third degree.~~

27 ~~(2) Any employer or supplier who knowingly files a~~
28 ~~frivolous and vexatious trade secret claim shall be assessed~~
29 ~~a civil penalty of not more than \$2,500.~~

30 ~~(k) Application of section. The provisions of this section~~

~~shall not apply to the disclosure of any information required pursuant to any other State or Federal law.~~

~~Section 12.— Risk to public health.~~

~~If the department determines that any hazardous substance or other chemical poses a potential health risk to the general public in an area surrounding the workplace, it shall inform the nearest public health agency, hospital and fire company, and shall submit to them copies of each relevant material safety data sheet or hazardous substance fact sheet.~~

~~Section 13.— Protection of employees.~~

~~(a) General rule.— No employer shall discharge or cause to be discharged, or otherwise discipline or in any manner discriminate against an employee because the employee has filed a complaint, assisted the department with respect to an inspection under section 14, has instituted or caused to be instituted any proceeding under or related to this act, has testified or is about to testify in any proceeding, has requested any information or properly refused work under section 5, or has exercised any right afforded pursuant to the provisions of this act.~~

~~(b) Burden of proof.— If the department or the employee establishes that within the six months prior to the alleged violation the employee exercised any right provided in this act, the employer shall have the burden to show just cause for his action by clear and convincing evidence.~~

~~(c) Waivers invalid.— Any waiver by an employee or applicant for employment of the benefits or requirements of this act shall be against public policy and shall be null and void. Any employer's request or requirement that an employee waive any rights under this act as a condition of employment shall~~

1 ~~constitute a violation.~~

2 ~~Section 14. Complaints and investigations.~~

3 ~~(a) Procedure. The department is hereby empowered to~~
4 ~~prevent any violations of this act. All proceedings under this~~
5 ~~section will be scheduled and decisions rendered with all~~
6 ~~deliberate speed in the interests of protecting employees and~~
7 ~~members of the public from the dangers of chemical substances.~~
8 ~~Any person who believes there is a violation by an employer or~~
9 ~~supplier of this act or any part thereof, may file a complaint~~
10 ~~within 180 days of the violation with the department. The~~
11 ~~complaint shall be in writing, verified and shall set forth the~~
12 ~~grounds for the complaint. Upon request of the complainant, his~~
13 ~~or her identity shall not be revealed. Within 30 days after~~
14 ~~receipt of the complaint, the department shall so notify the~~
15 ~~respondent in writing and permit the respondent to demonstrate~~
16 ~~compliance with this act. If such compliance has not been~~
17 ~~demonstrated by clear and convincing evidence to the department~~
18 ~~within 14 days of the mailing of the notification, and if the~~
19 ~~facts in controversy are susceptible to verification by~~
20 ~~inspection, an employee of the department shall inspect, at~~
21 ~~reasonable times, the employer's workplace and all conditions~~
22 ~~relevant to the complaint and shall, in a reasonable manner,~~
23 ~~make any additional investigation deemed necessary for the full~~
24 ~~and effective determination of the employer's or supplier's~~
25 ~~compliance with this act. Whenever the representative of the~~
26 ~~department proceeding under this section is denied admission to~~
27 ~~any place of employment, he may obtain a warrant to make an~~
28 ~~inspection or investigation of the place of employment from the~~
29 ~~appropriate judicial authority upon a showing of the following:~~

30 ~~(1) That the individual seeking the warrant is a duly~~

1 ~~authorized agent of the department.~~

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

7 ~~(b) Prerefusal warrant. Upon application to the appropriate~~
8 ~~judicial authority and for good cause shown, the department may~~
9 ~~seek and obtain an inspection warrant prior to the 14 day period~~
10 ~~set forth in subsection (a), and/or prior to any refusal by~~
11 ~~respondent to voluntarily admit a representative of the~~
12 ~~department.~~

13 ~~(c) Issuance and content of order. If, upon inspection or~~
14 ~~investigation of a complaint, the department finds that a~~
15 ~~respondent has violated any requirements of this act, it shall~~
16 ~~within seven days issue to the respondent an order to comply.~~
17 ~~This order shall be in writing and shall specifically describe~~
18 ~~the nature of the violation and shall state a reasonable time~~
19 ~~period, not to exceed 90 days, within which the violation must~~
20 ~~be corrected by the employer.~~

21 ~~(d) Civil penalties. The department shall have authority to~~
22 ~~assess any civil penalties from \$500 to \$10,000 for each~~
23 ~~violation of this act, unless a greater amount is specified~~
24 ~~elsewhere in this act, giving due consideration to the~~
25 ~~appropriateness of the penalty with respect to the size of the~~
26 ~~business of the employer being charged, the gravity of the~~
27 ~~violation, the good faith of the respondent and the history of~~
28 ~~previous violations. If the violation has not been corrected~~
29 ~~within the time period, the department may levy a further civil~~
30 ~~penalty of not more than \$5,000 per day for each violation.~~

1 ~~Civil penalties due under this act shall be paid to the~~
2 ~~department for deposit into the State Treasury and may be~~
3 ~~collected by the department in a civil action brought in the~~
4 ~~appropriate court of common pleas. The penalties collected shall~~
5 ~~be used to defray the costs of administration and enforcement of~~
6 ~~this act.~~

7 ~~(e) Hearings. The respondent may, in writing, request the~~
8 ~~department to provide a hearing concerning any orders to comply,~~
9 ~~or penalties levied upon the employer under this section within~~
10 ~~30 days of the respondent's receipt of notice thereof. The~~
11 ~~hearing shall be afforded in accordance with 2 Pa.C.S. § 101 et~~
12 ~~seq. (relating to administrative law and procedure). After the~~
13 ~~hearing, the department shall affirm, reverse or modify its~~
14 ~~original determination.~~

15 ~~(f) Preliminary relief. Where the department determines~~
16 ~~that reasonable cause exists to believe a violation has~~
17 ~~occurred, and that said violation may cause immediate or~~
18 ~~irreparable harm to any employee or member of the public, the~~
19 ~~department shall seek a preliminary or special injunction in the~~
20 ~~appropriate court of common pleas. The courts of common pleas~~
21 ~~are hereby empowered to, and shall issue said injunctive relief~~
22 ~~upon a prima facie showing by the department of a violation and~~
23 ~~a showing by a preponderance of the evidence that immediate and~~
24 ~~irreparable harm is likely to ensue.~~

25 ~~(g) Interference with inspection. Any employer or~~
26 ~~individual who willfully obstructs or impedes an authorized~~
27 ~~representative of the department from carrying out an~~
28 ~~investigation or inspection pursuant to this act or who refuses~~
29 ~~entry to an authorized representative of the department to any~~
30 ~~workplace where such inspection is authorized by a warrant,~~

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

~~Section 15. Judicial review and enforcement.~~

~~(a) Appellate review. Any person or persons aggrieved by a final determination of the department pursuant to sections 11 and 14 may file a petition for review within 30 days of said determination in the Commonwealth Court pursuant to 42 Pa.C.S. § 763(a) (relating to direct appeals from government agencies). The decision of the department shall not be reversed or modified unless said decision is found to be arbitrary, capricious, illegal or not supported by substantial evidence.~~

~~(b) Original action. Any person may bring a civil action in the appropriate court of common pleas on his own behalf against any employer or supplier for a violation of any provision of this act or any rule promulgated pursuant thereto, or against the department for failure to enforce the provisions of this act or any rule or regulation promulgated pursuant thereto. Where the action involves the rights of more than one employee, any certified or recognized collective bargaining representative shall have standing to sue on behalf of said employees. The court may issue, whenever it deems appropriate, a preliminary, permanent or special injunction and award compensatory and liquidated damages, costs and expenses of litigation, including expert witness fees and reasonable attorney fees.~~

~~Section 16. False statements.~~

~~Any person who knowingly makes any false statement, representation or certification in any list, record or other document required to be maintained pursuant to this act shall be~~

~~assessed a civil penalty of not more than \$10,000, or shall be guilty of a criminal offense classed as a misdemeanor of the first degree, or both. Any employer or supplier who willfully or recklessly prepares a material safety data sheet for the purpose of withholding or falsifying relevant information concerning the nature and severity of the hazardous nature of the substance shall be assessed a civil penalty of not more than \$10,000, or shall be guilty of a criminal offense classed as a misdemeanor of the first degree, or both.~~

~~Section 17. Rules and regulations.~~

~~The department shall, in the manner provided by law, promulgate such rules and regulations and provide such forms and written materials as are necessary to carry out the provisions of this act.~~

~~Section 18. Construction of act.~~

~~(a) No release from liability. Nothing in this act shall in any way relieve an employer or supplier from liability with regard to the health and safety of an employee or other persons exposed to any substances, nor shall it relieve an employer or supplier from any other duty or responsibility under any other provision of law.~~

~~(b) construction with Federal law. This act is to be read in conjunction with any provision of Federal law providing for the identification, labeling or providing of information concerning hazardous substances and is intended to supplement such Federal regulation in the interests of protecting the health and safety of citizens of the Commonwealth.~~

~~(c) Local ordinances. This act shall not preempt or supersede any local ordinance or rule concerning the subject matter of this act, except to the extent that said local~~

~~ordinance or rule directly conflicts with the provisions herein.~~

~~(d) Exception. Notwithstanding any language to the contrary, the provisions of this act shall not apply to hazardous substances contained in a laboratory under the direct supervision or guidance of a technically qualified individual, except for the provisions of sections 5, 8 and 13. This exemption does not include a laboratory that primarily produces hazardous substances for commercial purposes. As used in this section "technically qualified individual" means a person who, because of education, training or experience, understands the risks associated with the hazardous substance or mixture containing a hazardous substance handled by employees under his supervision or guidance.~~

~~Section 19. Severability.~~

~~The provisions of this act are severable. If any provision of this act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.~~

~~Section 20. Fees.~~

~~(a) Employer and supplier fee. The department shall assess a fee from all suppliers and employers to help defray the costs of administration of this act. Said fee shall be no greater than \$50: Provided, That any group or class of employers exempted by the department from automatic filing of hazard and/or environmental survey forms, pursuant to section 3(g), shall also be exempted from paying any fee under this subsection.~~

~~(b) Trade secret claims. The department shall have the authority to assess a fee no greater than \$50 for the filing of each trade secret claim made pursuant to section 11.~~

1 ~~Section 21. Appropriation.~~

2 ~~The sum of \$2,900,000, or as much thereof as may be~~
3 ~~necessary, is hereby appropriated from the General Fund to the~~
4 ~~Department of Health to carry out the purpose of this act.~~

5 ~~Section 22. Effective date.~~

6 ~~(a) Sections 4(b), 5(c)(2), (d) and 6 shall take effect in~~
7 ~~one year as to the labeling of containers of hazardous~~
8 ~~substances, and in two years as to labeling of all other~~
9 ~~containers.~~

10 ~~(b) The obligation of the department to create lists of~~
11 ~~hazardous substances shall take effect immediately, and the~~
12 ~~department shall mail to each employer copies of said lists and~~
13 ~~the hazardous survey forms within six months.~~

14 ~~(c) The remainder of this act shall take effect in six~~
15 ~~months.~~

16 SECTION 1. SHORT TITLE.

<—

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

19 SECTION 2. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
21 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "ARTICLE." A MANUFACTURED ITEM WHICH IS FORMED TO A SPECIFIC
24 SHAPE OR DESIGN DURING MANUFACTURE, WHICH HAS END USE FUNCTIONS
25 DEPENDENT IN WHOLE OR IN PART UPON ITS SHAPE OR DESIGN DURING
26 END USE AND WHICH DOES NOT RELEASE, OR OTHERWISE RESULT IN
27 EXPOSURE TO, A HAZARDOUS CHEMICAL UNDER NORMAL CONDITIONS OF
28 USE.

29 "CHEMICAL." ANY ELEMENT, SUBSTANCE, CHEMICAL COMPOUND OR
30 MIXTURE OF ELEMENTS, SUBSTANCES OR COMPOUNDS, BUT SHALL NOT

1 INCLUDE AN ARTICLE AS DEFINED HEREIN, FOOD, AS DEFINED IN THE
2 FEDERAL FOOD, DRUG AND COSMETIC ACT (21 U.S.C. § 301 ET SEQ.),
3 COSMETICS, TOBACCO OR PRODUCTS WHICH ARE PRIMARILY INTENDED FOR
4 SALE ON THE RETAIL MARKET TO THE GENERAL PUBLIC AND ARE SEALED
5 IN THE PACKAGES TO BE USED THEREWITH.

6 "CHEMICAL ABSTRACTS SERVICE NUMBER." THE UNIQUE
7 IDENTIFICATION NUMBER ASSIGNED BY THE CHEMICAL ABSTRACTS SERVICE
8 TO CHEMICALS.

9 "CHEMICAL IDENTIFICATION SHEET OR CIS." A WRITTEN DOCUMENT,
10 PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ACT, WHICH
11 CONTAINS, IN THE CASE OF A HAZARDOUS MIXTURE, THE IDENTITY BY
12 CHEMICAL NAME, COMMON NAME AND CHEMICAL ABSTRACTS SERVICE
13 NUMBER, ALL SPECIAL HAZARDOUS SUBSTANCES, ALL HAZARDOUS
14 SUBSTANCES COMPRISING 1% OR MORE OF THE MIXTURE AND ALL OTHER
15 SUBSTANCES COMPRISING 3% OR MORE OF THE MIXTURE.

16 "CHEMICAL NAME." THE SCIENTIFIC DESIGNATION OF A CHEMICAL IN
17 ACCORDANCE WITH THE NOMENCLATURE SYSTEM DEVELOPED BY THE
18 INTERNATIONAL UNION OF PURE AND APPLIED CHEMISTRY OR THE
19 CHEMICAL ABSTRACTS SERVICE RULES OR NOMENCLATURE.

20 "COMMON NAME." ANY DESIGNATION OR IDENTIFICATION OTHER THAN
21 A CHEMICAL NAME OR TRADE NAME, BY WHICH A SUBSTANCE IS GENERALLY
22 KNOWN, SUCH AS A NONSYSTEMATIC SCIENTIFIC NAME, WHICH CLEARLY
23 IDENTIFIES A SINGLE CHEMICAL OR MIXTURE AND WHICH IS UNIQUE TO
24 THAT SPECIFIC CHEMICAL OR MIXTURE.

25 "CONTAINER." A RECEPTACLE USED TO HOLD A LIQUID, SOLID OR
26 GASEOUS SUBSTANCE INCLUDING, BUT NOT LIMITED TO, BOTTLES,
27 PIPELINE VALVES, VATS, BARRELS, BOXES, CANS, CYLINDERS, DRUMS,
28 CARTONS, VESSELS, VATS AND STATIONARY TANKS. THE TERM DOES NOT
29 INCLUDE CONTAINERS OF TEN GALLONS OR LESS INTO WHICH SUBSTANCES
30 ARE TRANSFERRED BY THE EMPLOYEE FROM LABELED CONTAINERS AND

1 WHICH ARE INTENDED ONLY FOR THE IMMEDIATE USE BY THE EMPLOYEE
2 WHO PERFORMS THE TRANSFER, OR CONTAINERS WHICH ARE PRIMARILY
3 DESIGNED TO BE SOLD ON THE RETAIL MARKET FOR USE BY THE GENERAL
4 PUBLIC.

5 "DEPARTMENT." THE DEPARTMENT OF HEALTH.

6 "EMPLOYEE." ANY PERSON CURRENTLY OR FORMERLY WORKING FOR AN
7 EMPLOYER, EXCEPT DOMESTIC OR CASUAL LABORERS EMPLOYED AT THE
8 EMPLOYER'S PLACE OF RESIDENCE.

9 "EMPLOYEE REPRESENTATIVE." AN INDIVIDUAL OR ORGANIZATION
10 AUTHORIZED BY AN EMPLOYEE OR EMPLOYEES TO EXERCISE HIS OR HER OR
11 THEIR RIGHTS TO REQUEST INFORMATION UNDER THIS ACT. A RECOGNIZED
12 OR CERTIFIED COLLECTIVE BARGAINING AGENT FOR AN EMPLOYEE SHALL
13 BE CONSIDERED TO BE AN EMPLOYEE REPRESENTATIVE WITHOUT REGARD TO
14 INDIVIDUAL EMPLOYEE AUTHORIZATION.

15 "EMPLOYER." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION OR
16 ASSOCIATION DOING BUSINESS IN THE COMMONWEALTH, INCLUDING THE
17 COMMONWEALTH, ITS POLITICAL SUBDIVISIONS, INCLUDING SCHOOL
18 DISTRICTS, AND ANY OFFICER, BOARD, COMMISSION, AGENCY, AUTHORITY
19 OR OTHER INSTRUMENTALITY THEREOF.

20 "ENVIRONMENTAL HAZARD." ANY SUBSTANCE, EMISSION OR DISCHARGE
21 DETERMINED BY THE DEPARTMENT TO BE A HAZARDOUS SUBSTANCE AND
22 WHICH IS LIKELY TO POSE A DANGER IF RELEASED INTO THE
23 ENVIRONMENT AND FOR WHICH A TRADE SECRET CLAIM SHALL NOT BE
24 MADE.

25 "EXPOSURE." ANY SITUATION ARISING FROM A WORKPLACE OPERATION
26 WHERE AN EMPLOYEE MAY INGEST, INHALE, ABSORB THROUGH THE SKIN OR
27 EYES, OR OTHERWISE COME INTO CONTACT WITH A CHEMICAL OR MIXTURE.

28 "HAZARDOUS MIXTURE." ANY MIXTURE THAT CONTAINS ONE OR MORE
29 HAZARDOUS SUBSTANCES IN A CONCENTRATION OF 1% OR GREATER IN THE
30 MIXTURE OR ANY MIXTURE THAT CONTAINS ONE OR MORE SPECIAL

1 HAZARDOUS SUBSTANCES OR ENVIRONMENTAL HAZARDS IN ANY AMOUNT. FOR
2 THE PURPOSES OF THIS ACT, WHERE A SPECIAL HAZARDOUS MIXTURE IS
3 COMBINED WITH ONE OR MORE CHEMICALS OR MIXTURES TO FORM A NEW
4 MIXTURE, THE NEW MIXTURE SHALL BE CONSIDERED TO BE A HAZARDOUS
5 MIXTURE.

6 "HAZARDOUS SUBSTANCE." ANY CHEMICAL OR MIXTURE DEFINED AS
7 HAZARDOUS PURSUANT TO SECTION 3. FOR THE PURPOSES OF THIS ACT,
8 ANY HAZARDOUS MIXTURE IS A HAZARDOUS SUBSTANCE.

9 "HAZARDOUS SUBSTANCE FACT SHEET OR HSFS." A WRITTEN DOCUMENT
10 PREPARED BY THE DEPARTMENT FOR THE PURPOSE OF TRANSMITTING
11 INFORMATION ABOUT A HAZARDOUS SUBSTANCE TO EMPLOYERS, EMPLOYEES
12 OR MEMBERS OF THE GENERAL PUBLIC.

13 "HAZARD WARNING." WORDS, PICTURES, SYMBOLS OR A COMBINATION
14 OF THESE APPEARING ON A LABEL WHICH INSTRUCT EMPLOYEES AS TO
15 IMMEDIATE ACTION THEY SHOULD TAKE FOR THEIR OWN PROTECTION.

16 "HEALTH PROFESSIONAL." ANY PHYSICIAN, INDUSTRIAL HYGIENIST,
17 TOXICOLOGIST OR EPIDEMIOLOGIST PROVIDING MEDICAL, OCCUPATIONAL
18 HEALTH OR ENVIRONMENTAL HEALTH SERVICES.

19 "IMPORTER." THE FIRST BUSINESS WITHIN THE CUSTOMS TERRITORY
20 OF THE UNITED STATES, WHICH HANDLES CHEMICALS PRODUCED IN OTHER
21 COUNTRIES AND INTENDED FOR SALE AND DISTRIBUTION TO PURCHASERS
22 WITHIN THE UNITED STATES.

23 "LABEL." A SIGN, EMBLEM, STICKER OR MARKER AFFIXED TO OR
24 STENCILED INTO A CONTAINER LISTING THE INFORMATION REQUIRED
25 PURSUANT TO SECTION 6.

26 "MANUFACTURER." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION,
27 ASSOCIATION OR OTHER PERSON WHO PROVIDES, EXTRACTS, PRODUCES OR
28 OTHERWISE MAKES CHEMICALS.

29 "MATERIAL SAFETY DATA SHEET OR MSDS." A WRITTEN DOCUMENT
30 PREPARED BY A SUPPLIER OR EMPLOYER IN CONFORMITY WITH THE

1 REQUIREMENTS SET FORTH IN THIS ACT FOR THE PURPOSE OF
2 TRANSMITTING INFORMATION CONCERNING A CHEMICAL.

3 "MIXTURE." A COMBINATION OF TWO OR MORE CHEMICALS NOT
4 INVOLVING A CHEMICAL REACTION.

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

9 "OSHA." THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH
10 ADMINISTRATION.

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

17 "SEALED PACKAGE." A PACKAGE SHALL BE IN A SEALED STATE IF IT
18 IS A CONTAINER OR VESSEL WHOSE CONTENTS HAVE BEEN PLACED INTO IT
19 BY THE MANUFACTURER OR IMPORTER FOR THE PURPOSE OF BEING
20 TRANSPORTED FROM ONE POINT TO ANOTHER AND WHEN SUCH A PACKAGE
21 WHOSE CONTENTS HAVE BEEN PLACED INTO IT BY THE MANUFACTURER OR
22 IMPORTER IS IN THE PROCESS OF BEING SO TRANSPORTED. A PACKAGE IS
23 NOT SEALED IF IT IS OPENED FOR THE PURPOSE OF TRANSFERRING THE
24 CONTENTS WHICH HAVE BEEN PLACED INTO IT BY THE MANUFACTURER OR
25 IMPORTER TO ANOTHER CONTAINER OR VESSEL; HOWEVER, OPENING A
26 PACKAGE TO EXAMINE THE CONTENTS FOR EMERGENCY OR SAFETY REASONS
27 SHALL BE ALLOWED.

28 "SPECIAL HAZARDOUS SUBSTANCE." A HAZARDOUS SUBSTANCE SO
29 DESIGNATED BY THE DEPARTMENT BECAUSE ITS PARTICULAR TOXICITY,
30 TUMORIGENICITY, MUTAGENICITY, REPRODUCTIVE TOXICITY,

1 FLAMMABILITY, EXPLOSIVENESS, CORROSIVITY OR REACTIVITY POSES A
2 SPECIAL HAZARD TO HEALTH AND SAFETY AND FOR WHICH A TRADE SECRET
3 CLAIM SHALL NOT BE MADE.

4 "SUPPLIER." ANY INDIVIDUAL, PARTNERSHIP, CORPORATION,
5 ASSOCIATION OR OTHER PERSON, INSIDE OR OUTSIDE OR OUTSIDE THE
6 COMMONWEALTH, WHO MANUFACTURES, SUPPLIES, IMPORTS OR DISTRIBUTES
7 ANY CHEMICAL FOR SALE, DISTRIBUTION OR USE WITHIN THE
8 COMMONWEALTH.

9 "TRADE NAME." ANY DESIGNATION OR IDENTIFICATION SUCH AS A
10 CODE NAME OR NUMBER, OR A BRAND NAME, USED BY AN EMPLOYER OR
11 SUPPLIER TO IDENTIFY A CHEMICAL OTHER THAN BY ITS CHEMICAL OR
12 COMMON NAME.

13 "TRADE SECRET." ANY FORMULA, PLAN, PATTERN, PROCESS,
14 PRODUCTION DATA, INFORMATION OR COMPILATION OF INFORMATION,
15 INCLUDING CHEMICAL NAME, WHICH IS KNOWN ONLY TO AN EMPLOYER AND
16 A LIMITED NUMBER OF OTHER INDIVIDUALS, AND WHICH IS USED IN THE
17 FABRICATION AND PRODUCTION OR DEVELOPMENT OF AN ARTICLE OF TRADE
18 OR SERVICE, AND WHICH GIVES THE EMPLOYER POSSESSING IT A
19 COMPETITIVE ADVANTAGE OVER BUSINESSES WHO DO NOT POSSESS IT, OR
20 THE SECRECY OF WHICH IS CERTIFIED BY AN APPROPRIATE OFFICIAL OF
21 THE FEDERAL GOVERNMENT AS NECESSARY FOR NATIONAL DEFENSE
22 PURPOSES.

23 "WORKPLACE." ANY BUILDING OR WORK AREA OR CONTIGUOUS GROUP
24 OF BUILDINGS OR WORK AREAS COMPOSING A PLANT SITE IN THE
25 COMMONWEALTH USED BY THE EMPLOYER ON A PERMANENT OR TEMPORARY
26 BASIS TO CONDUCT BUSINESS.

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

30 SECTION 3. HAZARDOUS SUBSTANCE LIST.

1 (A) HAZARDOUS SUBSTANCE LIST.--THE DEPARTMENT SHALL, NO
2 LATER THAN 180 DAYS SUBSEQUENT TO THE EFFECTIVE DATE OF THIS
3 ACT, COMPILE A LIST OF HAZARDOUS SUBSTANCES WHICH SHALL INCLUDE,
4 BUT NOT BE LIMITED TO, THE SUBSTANCES FOUND IN THE LATEST
5 COMPILATION OR ISSUE OF ANY ONE OF THE FOLLOWING LISTS:

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

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

13 (3) EPA LIST OF RESTRICTED USE PESTICIDES FOUND AT 40
14 CFR 162.30 (RELATING TO OPTIONAL PROCEDURES FOR
15 CLASSIFICATION OF PESTICIDE USES BY REGULATION).

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

18 (5) OSHA LIST OF TOXIC AND HAZARDOUS SUBSTANCES FOUND IN
19 29 CFR 1910, SUBPART Z (RELATING TO TOXIC AND HAZARDOUS
20 SUBSTANCES).

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

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

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

28 (9) NATIONAL FIRE PROTECTION ASSOCIATION LIST FOUND IN
29 "FIRE HAZARD PROPERTIES OF FLAMMABLE LIQUIDS, GASES, VOLATILE
30 SOLIDS (NFPA 325M)," BUT ONLY THOSE SUBSTANCES FOUND ON

SUBLISTS FOR HEALTH ITEMS, CATEGORIES 2, 3 AND 4; SUBLISTS FOR REACTIVITY ITEMS, CATEGORIES 3 AND 4; SUBLISTS FOR FLAMMABILITY, CATEGORIES 3 AND 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 OR MIXTURE DESIGNATED BY THE DEPARTMENT AS HAZARDOUS BECAUSE OF ITS KNOWN OR PROBABLE ADVERSE HUMAN OR ENVIRONMENTAL EFFECT. THIS LIST SHALL BE UPDATED OR EXPANDED BY THE DEPARTMENT AS NECESSARY IN LIGHT OF NEW SCIENTIFIC EVIDENCE AND KNOWLEDGE. A COPY OF THE LIST AND ANY MODIFICATIONS THEREOF SHALL BE TRANSMITTED TO EVERY EMPLOYER AS NECESSARY.

(B) ADDITIONS TO HAZARDOUS SUBSTANCE LIST.--ANY CHEMICALS WHICH APPEAR ON ANY FUTURE COMPILATION OR ISSUE OF ANY OF THE LISTS CONTAINED IN SUBSECTION 3(A) SHALL AUTOMATICALLY BE ADDED TO THE HAZARDOUS SUBSTANCE LIST. PRIOR TO ADDING ANY OTHER CHEMICALS TO THE LIST OF HAZARDOUS SUBSTANCES ENUMERATED IN SECTION 3(A)(1) THROUGH (11), THE DEPARTMENT SHALL, AFTER GIVING PROPER NOTICE, HOLD HEARINGS ON THE PROPOSED ADDITIONS TO ALLOW FOR COMMENT BY INTERESTED PARTIES. UPON CONCLUSION OF THE HEARINGS, THE DEPARTMENT SHALL AMEND ITS REGULATIONS TO REFLECT ADDITIONS AND PUBLISH THE ADDITIONS THERETO IN THE PENNSYLVANIA BULLETIN, AND NOTIFY EMPLOYERS REGARDING THE ADDITIONS.

(C) SPECIAL AND ENVIRONMENTAL HAZARDS.--THE DEPARTMENT SHALL

1 DESIGNATE THOSE HAZARDOUS SUBSTANCES WHICH SHALL BE CONSIDERED
2 SPECIAL HAZARDOUS SUBSTANCES AND THOSE WHICH SHALL BE CONSIDERED
3 ENVIRONMENTAL HAZARDS. THE DEPARTMENT SHALL COMPILE SEPARATE
4 LISTS OF THE SPECIAL HAZARDOUS SUBSTANCES AND THE ENVIRONMENTAL
5 HAZARDS. THESE LISTS SHALL BE UPDATED, TRANSMITTED TO EMPLOYERS
6 AND POSTED BY EMPLOYERS IN THE SAME MANNER AS THE HAZARDOUS
7 SUBSTANCE LIST.

8 (D) HAZARDOUS SUBSTANCE SURVEY FORM.--EVERY EMPLOYER SHALL,
9 UPON A FORM SUPPLIED BY THE DEPARTMENT, FILL OUT A HAZARDOUS
10 SUBSTANCE SURVEY FOR EACH WORKPLACE, PROVIDING INFORMATION ON
11 THE HAZARDOUS SUBSTANCES PRESENT DURING THE PRIOR YEAR. A
12 LISTING OF THE HAZARDOUS SUBSTANCES SHALL BE POSTED BY THE
13 EMPLOYER AS REQUIRED BY SECTION 7. UPON THE WRITTEN REQUEST OF
14 ANY PERSON, THE DEPARTMENT SHALL REQUIRE THE EMPLOYER TO FORWARD
15 A COPY OF THE COMPLETED SURVEY FORM TO THE DEPARTMENT WITHIN 20
16 DAYS. THE DEPARTMENT SHALL, IN TURN, KEEP A COPY OF THE SURVEY
17 FORM ON FILE, AND SHALL IMMEDIATELY TRANSMIT A COPY OF THE FORM
18 TO THE ORIGINAL REQUESTOR. THE EMPLOYER SHALL UPDATE THE
19 HAZARDOUS SUBSTANCE SURVEY FOR EACH WORKPLACE EVERY TWO YEARS.

20 (E) ACCESS OF POLICE, FIRE AND EMERGENCY RESPONSE
21 AGENCIES.--UPON THE REQUEST OF A LOCAL POLICE, FIRE OR EMERGENCY
22 RESPONSE AGENCY, WITHIN WHOSE JURISDICTION AN EMPLOYER FALLS, AN
23 EMPLOYER SHALL PROVIDE A COPY OF ITS LATEST HAZARDOUS SUBSTANCE
24 SURVEY, TOGETHER WITH COPIES OF ALL RELEVANT MATERIAL SAFETY
25 DATA SHEETS. THE EMPLOYER SHALL FURTHER PROVIDE, UPON THE
26 REQUEST OF SAID AGENCY, ALL RELEVANT AND AVAILABLE INFORMATION
27 CONCERNING ANY ENVIRONMENTAL HAZARDS PERTAINING TO THE WORKPLACE
28 IN QUESTION.

29 (F) ENVIRONMENTAL HAZARD SURVEY.--UPON THE WRITTEN REQUEST
30 OF ANY PERSON, THE DEPARTMENT SHALL REQUIRE AN EMPLOYER TO

1 COMPLETE AN ENVIRONMENTAL HAZARD SURVEY FOR A PARTICULAR
2 WORKPLACE UPON A FORM SUPPLIED BY THE DEPARTMENT. THE
3 ENVIRONMENTAL SURVEY SHALL INCLUDE THOSE SUBSTANCES EMITTED,
4 DISCHARGED OR DISPOSED OF FROM THAT WORKPLACE, AND SHALL PROVIDE
5 THE FOLLOWING INFORMATION TO THE EXTENT THAT SUCH INFORMATION OR
6 REPORTS ARE MADE UNDER CURRENT PROVISIONS OF FEDERAL AND STATE
7 LAW:

8 (1) THE TOTAL KNOWN OR ESTIMATED STACK OR POINT-SOURCE
9 EMISSIONS OF THE SUBSTANCE.

10 (2) THE TOTAL ESTIMATED FUGITIVE OR NONPOINT-SOURCE
11 EMISSIONS OF THE SUBSTANCE.

12 (3) THE TOTAL KNOWN OR ESTIMATED DISCHARGE OF THE
13 SUBSTANCE INTO THE SURFACE OR GROUNDWATER, THE TREATMENT
14 METHODS AND THE KNOWN OR ESTIMATED RAW WASTEWATER VOLUME AND
15 LOADINGS.

16 (4) THE TOTAL KNOWN OR ESTIMATED DISCHARGE OF THE
17 SUBSTANCE INTO PUBLICLY OWNED TREATMENT WORKS.

18 (5) THE KNOWN OR ESTIMATED QUANTITY AND METHODS OF
19 DISPOSAL OF ANY WASTES CONTAINING THE SUBSTANCE, THE METHOD
20 OF ONSITE STORAGE OF THESE WASTES, THE LOCATION OR LOCATIONS
21 OF THE FINAL DISPOSAL SITES FOR THESE WASTES AND THE IDENTITY
22 OF THE HAULER OF THE WASTES.

23 WITHIN 30 DAYS OF THE DEPARTMENT'S REQUEST, THE EMPLOYER SHALL
24 RETURN THE COMPLETED ENVIRONMENTAL SURVEY FORM TO THE
25 DEPARTMENT, WHICH SHALL IN TURN KEEP A COPY ON FILE AND SHALL
26 IMMEDIATELY TRANSMIT A COPY TO THE ORIGINAL REQUESTOR. THE
27 EMPLOYER SHALL ALSO KEEP A COPY OF THE ENVIRONMENTAL HAZARD
28 SURVEY ON FILE AT THAT WORKPLACE AND AT ITS PRINCIPAL PLACE OF
29 BUSINESS IN THE COMMONWEALTH.

30 (G) ONSITE TESTING.--UPON REQUEST TO THE DEPARTMENT, AND FOR

1 GOOD CAUSE SHOWN, AND UPON CONSULTATION WITH THE INTERESTED
2 PARTIES INVOLVED, THE DEPARTMENT MAY REQUIRE AN EMPLOYER TO USE
3 ONSITE TESTING OR SUCH OTHER METHODS AS WILL PROVIDE MORE EXACT
4 INFORMATION AS REQUESTED ON THE ENVIRONMENTAL HAZARD SURVEY. IN
5 AN EMERGENCY, THE SECRETARY MAY EMPOWER THE DEPARTMENT TO
6 UNDERTAKE SAID TESTING AT THE COMMONWEALTH'S EXPENSE.

7 (H) AUTHORITY TO MODIFY FILING REQUIREMENTS.--THE DEPARTMENT
8 MAY, BY REGULATION, REQUIRE CERTAIN CLASSES OR GROUPS OF
9 EMPLOYERS TO AUTOMATICALLY FILE WITH THE DEPARTMENT THE
10 COMPLETED HAZARDOUS SUBSTANCE SURVEY AND/OR ENVIRONMENTAL HAZARD
11 SURVEY EVERY TWO YEARS, TAKING INTO ACCOUNT THE NATURE AND
12 QUANTITY OF THE HAZARDOUS SUBSTANCES AND/OR ENVIRONMENTAL
13 HAZARDS INVOLVED, THE LIKELY DANGER TO THE SURROUNDING
14 COMMUNITY, THE NUMBER OF EMPLOYEES AFFECTED OR THE IMPORTANCE OF
15 SAID INFORMATION TO FUTURE EPIDEMIOLOGICAL OR OTHER HEALTH
16 STUDIES.

17 (I) APPLICATION.--NOTWITHSTANDING ANY LANGUAGE TO THE
18 CONTRARY, THE PROVISIONS OF THIS ACT SHALL NOT APPLY TO
19 HAZARDOUS SUBSTANCES CONTAINED IN THE FOLLOWING:

20 (1) AN ARTICLE.

21 (2) PRODUCTS INTENDED FOR PERSONAL CONSUMPTION BY
22 EMPLOYEES IN THE WORKPLACE; CONSUMER PRODUCTS PACKAGED IN
23 CONTAINERS WHICH ARE PRIMARILY DESIGNED FOR DISTRIBUTION TO,
24 AND USE BY, THE GENERAL PUBLIC; AND FOODS AS DEFINED IN THE
25 FEDERAL FOOD, DRUG AND COSMETIC ACT (21 U.S.C. § 301 ET
26 SEQ.).

27 (3) A RESEARCH AND DEVELOPMENT LABORATORY, EXCEPT FOR
28 THE PROVISIONS OF SECTIONS 5, 8, 11, 13 AND 14. THIS
29 EXEMPTION DOES NOT INCLUDE A LABORATORY THAT PRIMARILY
30 PRODUCES HAZARDOUS SUBSTANCES FOR COMMERCIAL PURPOSES.

1 "TECHNICALLY QUALIFIED INDIVIDUAL" MEANS A PERSON WHO,
2 BECAUSE OF EDUCATION, TRAINING OR EXPERIENCE, UNDERSTANDS THE
3 RISKS ASSOCIATED WITH THE HAZARDOUS SUBSTANCE OR MIXTURE
4 CONTAINING A HAZARDOUS SUBSTANCE HANDLED BY EMPLOYEES UNDER
5 HIS OR HER SUPERVISION OR GUIDANCE.

6 (4) A WORKPLACE WHERE A HAZARDOUS SUBSTANCE IS RECEIVED
7 IN A SEALED PACKAGE AND IS SUBSEQUENTLY SOLD OR TRANSFERRED
8 IN THAT PACKAGE WITHIN 20 DAYS, IF THE SEAL REMAINS INTACT
9 WHILE THE SUBSTANCE IS IN THE WORKPLACE, EXCEPT FOR THE
10 PROVISIONS OF SECTIONS 5, 8, 11, 13 AND 14.

11 (J) RETENTION OF MATERIALS.--THE DEPARTMENT SHALL MAINTAIN A
12 FILE OF ALL COMPLETED HAZARDOUS SUBSTANCE SURVEYS AND
13 ENVIRONMENTAL HAZARD SURVEYS FOR 30 YEARS. THE DEPARTMENT SHALL
14 ALSO RETAIN AT LEAST ONE MATERIAL SAFETY DATA SHEET FOR EACH
15 HAZARDOUS SUBSTANCE AND HAZARDOUS MIXTURE, TOGETHER WITH
16 REVISIONS THEREOF.

17 SECTION 4. OBLIGATION OF SUPPLIERS.

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

23 (B) PROVISION OF MATERIAL SAFETY DATA SHEETS.--

24 (1) ALL MANUFACTURERS, IMPORTERS OR SUPPLIERS, AS A
25 CONDITION OF DOING BUSINESS IN THIS COMMONWEALTH, SHALL
26 PREPARE AN MSDS FOR EACH HAZARDOUS SUBSTANCE OR HAZARDOUS
27 MIXTURE THEY PRODUCE OR IMPORT, AND SHALL ENSURE THAT ALL
28 PURCHASERS OF HAZARDOUS SUBSTANCES OR HAZARDOUS MIXTURES ARE
29 PROVIDED AN APPROPRIATE MSDS WITH THEIR INITIAL SHIPMENT, AND
30 WITH THE FIRST SHIPMENT AFTER AN MSDS IS UPDATED. THE

1 MANUFACTURER, IMPORTER OR SUPPLIER SHALL FURTHER PROVIDE AN
2 MSDS FOR ANY OTHER CHEMICAL DELIVERED TO A POINT WITHIN THE
3 COMMONWEALTH, IF THE MANUFACTURER, IMPORTER OR SUPPLIER
4 PRODUCES OR POSSESSES SUCH AN MSDS.

5 (2) DISTRIBUTORS SHALL ENSURE THAT MSDS'S ARE PROVIDED
6 TO ALL PURCHASERS OF HAZARDOUS SUBSTANCES OR HAZARDOUS
7 MIXTURES. MANUFACTURERS, IMPORTERS, SUPPLIERS AND
8 DISTRIBUTORS SHALL NOTIFY THE RECIPIENT OF THE HAZARDOUS
9 SUBSTANCE OR HAZARDOUS MIXTURE THAT SUCH SUBSTANCE IS SUBJECT
10 TO THE PROVISIONS OF THIS ACT. IN LIEU OF PHYSICALLY
11 ATTACHING MSDS'S TO CONTAINERS SHIPPED, THE MANUFACTURER,
12 IMPORTER, SUPPLIER OR DISTRIBUTOR MAY MAIL THE MSDS TO THE
13 PURCHASER AT THE TIME OF THE SHIPMENT.

14 (3) EMPLOYERS SHALL OBTAIN AND MAINTAIN MSDS'S FOR EACH
15 HAZARDOUS SUBSTANCE OR HAZARDOUS MIXTURE IN THEIR WORKPLACE.
16 IF AN MSDS IS NOT PROVIDED WITH THE SHIPMENT, THE EMPLOYER
17 SHALL OBTAIN ONE FROM THE MANUFACTURER, IMPORTER, SUPPLIER OR
18 DISTRIBUTOR.

19 (4) MANUFACTURERS, IMPORTERS OR SUPPLIERS SHALL ENSURE
20 THAT ONE COPY OF AN MSDS FOR EACH HAZARDOUS SUBSTANCE OR
21 HAZARDOUS MIXTURE WHICH THEY PRODUCE WITHIN OR DELIVER TO A
22 POINT WITHIN THIS COMMONWEALTH SHALL BE MAILED TO THE
23 DEPARTMENT AT THE SAME TIME AS THEIR INITIAL SHIPMENT TO AN
24 EMPLOYER WITHIN THIS COMMONWEALTH. IN ADDITION, THE
25 MANUFACTURER, IMPORTER OR SUPPLIER SHALL MAIL TO THE
26 DEPARTMENT ONE COPY OF AN MSDS FOR ANY OTHER CHEMICAL FOR
27 WHICH THEY PRODUCE OR POSSESS AN MSDS, AT THE TIME OF THE
28 INITIAL SHIPMENT OF THE CHEMICAL TO AN EMPLOYER WITHIN THIS
29 COMMONWEALTH. AN ADDITIONAL SUBMISSION OF AN MSDS SHALL BE
30 MADE AT THE TIME OF THE FIRST SHIPMENT TO AN EMPLOYER WITHIN

1 THIS COMMONWEALTH AFTER AN MSDS IS UPDATED. IN THIS MANNER,
2 OR UPON ITS OWN INITIATIVE, THE DEPARTMENT SHALL COMPILE A
3 COMPLETE FILE OF ALL MSDS'S FOR EACH HAZARDOUS SUBSTANCE,
4 HAZARDOUS MIXTURE AND APPROPRIATE CHEMICAL THAT IS PRODUCED
5 OR DISTRIBUTED WITHIN THIS COMMONWEALTH, AND SHALL KEEP THE
6 COMPLETE MSDS FILE UPDATED AS NEW INFORMATION BECOMES
7 AVAILABLE.

8 (C) CONTENTS OF MATERIAL SAFETY DATA SHEETS.--SUBJECT TO THE
9 TRADE SECRET PROVISIONS COVERED IN SECTION 11, THE INFORMATION
10 IN THE MATERIAL SAFETY DATA SHEETS SHALL BE AT LEAST AS COMPLETE
11 AS THAT MAINTAINED BOTH BY THE NATIONAL LIBRARY OF MEDICINE
12 COMPUTER FILES AND THE LATEST EDITION OF THE NATIONAL FIRE
13 PROTECTION ASSOCIATION'S FIRE PROTECTION GUIDE ON HAZARDOUS
14 MATERIALS. IT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
15 FOLLOWING INFORMATION:

16 (1) THE CHEMICAL NAME, THE CHEMICAL ABSTRACTS SERVICE
17 NUMBER, THE TRADE NAME, COMMON NAMES AND ANY OTHER NAMES
18 UNDER WHICH SAID SUBSTANCE IS REGULATED BY ANOTHER STATE OR
19 FEDERAL AGENCY.

20 (2) THE CHEMICAL NAME, COMMON NAME AND CHEMICAL
21 ABSTRACTS SERVICE NUMBER OF EVERY CHEMICAL CONTAINED IN THE
22 SUBSTANCE WHICH COMPRISES 3% OR MORE OF THE SUBSTANCE EXCEPT
23 THAT HAZARDOUS SUBSTANCES SHALL BE LISTED IF THEY COMPRISE 1%
24 OR MORE OF THE SUBSTANCE, AND ALL SPECIAL HAZARDOUS
25 SUBSTANCES SHALL BE LISTED.

26 (3) A REFERENCE TO ALL RELEVANT INFORMATION ON THE
27 HAZARDOUS SUBSTANCE FROM THE NIOSH REGISTRY OF TOXIC EFFECTS
28 OF CHEMICAL SUBSTANCES.

29 (4) THE BOILING POINT, VAPOR PRESSURE, VAPOR DENSITY,
30 SOLUBILITY IN WATER, SPECIFIC GRAVITY, MELTING POINT,

1 PHYSICAL STATE, COLOR AND ODOROUS PROPERTIES AT STANDARD
2 CONDITIONS OF TEMPERATURE AND PRESSURE.

3 (5) THE FLASH POINT, AUTO IGNITION TEMPERATURE,
4 PERCENTAGE OF VOLUME OF FLAMMABLE LIMITS, THE RECOMMENDED
5 FIRE EXTINGUISHING MEDIA, ANY SPECIAL FIREFIGHTING PROCEDURE
6 AND ANY OTHER UNUSUAL FIRE OR EXPLOSION HAZARDS.

7 (6) THE HAZARDS, IF ANY, POSED BY THE SUBSTANCE,
8 INCLUDING ITS TOXICITY, TUMORIGENICITY, MUTAGENICITY,
9 REPRODUCTIVE TOXICITY, FLAMMABILITY, EXPLOSIVENESS,
10 CORROSIVITY AND REACTIVITY, INCLUDING SPECIFIC INFORMATION ON
11 ITS REACTIVITY WITH WATER.

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

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

21 (9) THE POTENTIAL ROUTES AND SYMPTOMS OF EXPOSURE TO THE
22 HAZARDOUS SUBSTANCES.

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

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

(12) RECOMMENDED WASTE DISPOSAL METHOD IF APPLICABLE.

(13) PERSONAL PROTECTIVE EQUIPMENT TO BE WORN OR USED WHEN HANDLING OR OTHERWISE COMING IN CONTACT WITH THE 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 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.

(E) SIMILAR SUBSTANCES.--WHERE HAZARDOUS MIXTURES HAVE SIMILAR CONTENTS AND HAZARDS, BUT VARY IN SPECIFIC COMPOSITION, THE SUPPLIER OR EMPLOYER MAY PREPARE ONE MATERIAL SAFETY DATA SHEET TO APPLY TO ALL OF THE SIMILAR MIXTURES: PROVIDED, THAT THE MATERIAL SAFETY DATA SHEET IDENTIFIES ALL THE VARIOUS MIXTURES BY THE NAMES TO WHICH IT APPLIES, IS CORRECT IN ALL

1 RESPECTS AND CORRECTLY STATES THE CONSTITUENT CHEMICALS IN ALL
2 OF THE MIXTURES.

3 (F) NO DUTY TO TEST.--THIS SECTION SHALL NOT BE CONSTRUED TO
4 MEAN THAT AN EMPLOYER OR SUPPLIER MUST CONDUCT STUDIES TO
5 DEVELOP NEW INFORMATION.

6 SECTION 5. AVAILABILITY OF INFORMATION.

7 (A) DISSEMINATION TO LOCAL AGENCIES.--THE DEPARTMENT SHALL
8 ENSURE THAT EACH OF ITS REGIONAL OFFICES MAKES AVAILABLE TO THE
9 PUBLIC THE MSDS'S AND OTHER INFORMATION REQUIRED UNDER THIS ACT.
10 THE DEPARTMENT SHALL FURTHER MAKE IMMEDIATELY AVAILABLE ANY
11 MSDS'S AND ANY COMPLETED HAZARDOUS SUBSTANCE OR ENVIRONMENTAL
12 HAZARD SURVEYS FOR A PARTICULAR COUNTY TO THE APPROPRIATE LOCAL
13 POLICE, FIRE OR OTHER EMERGENCY RESPONSE AGENCY, UPON SAID
14 AGENCY'S REQUEST, IF THE SAME HAS NOT ALREADY BEEN OBTAINED.

15 (B) NEW INFORMATION.--WHENEVER A SUPPLIER RECEIVES OR
16 DISCOVERS ANY RELEVANT NEW INFORMATION REGARDING A HAZARDOUS
17 SUBSTANCE, THE SUPPLIER SHALL MAKE SUCH INFORMATION AVAILABLE TO
18 THE DEPARTMENT AND TO ALL EMPLOYERS TO WHICH THE SUPPLIER
19 PROVIDES SAID SUBSTANCE. THE EMPLOYER SHALL, IN TURN, MAKE SUCH
20 INFORMATION AVAILABLE TO EMPLOYEES AND THE EMPLOYEES'
21 REPRESENTATIVES, UPON RECEIPT OF SUCH NEW INFORMATION.

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

25 (1) ANY OF THE LISTS OR SURVEY FORMS GENERATED UNDER
26 SECTION 3.

27 (2) ANY MATERIAL SAFETY DATA SHEET FOR ANY HAZARDOUS
28 SUBSTANCE OR HAZARDOUS MIXTURE PRESENT IN ANY OF THE
29 EMPLOYER'S WORKPLACES.

30 (D) FURNISHING INFORMATION.--UPON THE WRITTEN REQUEST OF AN

1 EMPLOYEE OR EMPLOYEE REPRESENTATIVE, THE EMPLOYER SHALL FURNISH
2 A COPY OF THE MSDS OR THE HSFS TO SAID EMPLOYEE WITHIN FIVE DAYS
3 OF RECEIPT OF THE WRITTEN REQUEST, IF THE REQUESTED MSDS OR HSFS
4 IS IN THE POSSESSION OF THE EMPLOYER. IF THE EMPLOYER POSSESSES
5 SAID INFORMATION, AND FAILS TO GIVE SAID INFORMATION TO THE
6 EMPLOYEE OR EMPLOYEE REPRESENTATIVE WITHIN FIVE DAYS, THE
7 EMPLOYEE SHALL HAVE THE RIGHT TO REFUSE TO WORK WITH THE
8 SPECIFIC HAZARDOUS SUBSTANCE UNTIL SUCH TIME AS THE INFORMATION
9 REQUESTED IS PROVIDED, WITHOUT PENALTY TO SAID EMPLOYEE. IF THE
10 REQUESTED INFORMATION IS NOT IN THE POSSESSION OF THE EMPLOYER,
11 THE EMPLOYER SHALL NOTIFY, IN WRITING, SAID EMPLOYEE WITHIN FIVE
12 DAYS OF THE RECEIPT OF THE WRITTEN REQUEST, THAT THE INFORMATION
13 IS NOT IN HIS POSSESSION. WITHIN 15 DAYS OF THE DATE OF WRITTEN
14 NOTIFICATION TO THE EMPLOYEE, THE EMPLOYER SHALL OBTAIN THE
15 REQUESTED INFORMATION FROM EITHER THE MANUFACTURER, SUPPLIER OR
16 THE DEPARTMENT. IF THE EMPLOYER FAILS TO SUPPLY THE EMPLOYEE THE
17 REQUESTED INFORMATION WITHIN 15 DAYS OF THE DATE OF THE WRITTEN
18 NOTIFICATION TO SAID EMPLOYEE, SAID EMPLOYEE SHALL THEN HAVE THE
19 RIGHT TO REFUSE TO WORK WITH THE SAID HAZARDOUS SUBSTANCE, UNTIL
20 SUCH TIME AS THE EMPLOYER SUPPLIES THE REQUESTED INFORMATION, AT
21 NO PENALTY TO SAID EMPLOYEE.

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

30 (F) LIMITATION ON FEES.--ALL MATERIAL SAFETY DATA SHEETS,

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

13 (G) PUBLIC ACCESS.--ANY PERSON MAY REQUEST FROM THE
14 DEPARTMENT A COPY OF THE LISTS OR FORMS REQUIRED IN SECTION 3
15 WHICH ARE PRESENT IN A PARTICULAR WORKPLACE, AND ANY MATERIAL
16 SAFETY DATA SHEET OR HAZARDOUS SUBSTANCE FACT SHEET ON FILE AND
17 THE DEPARTMENT SHALL TRANSMIT THE REQUESTED MATERIAL WITHIN 45
18 DAYS. ANY REQUEST SHALL BE TREATED BY THE DEPARTMENT AS
19 CONFIDENTIAL AS TO THE NAME AND ADDRESS OF THE REQUESTOR. THE
20 DEPARTMENT SHALL ALSO MAKE MATERIALS FOR ITS RESPECTIVE REGIONS
21 IMMEDIATELY AVAILABLE DURING BUSINESS HOURS FROM ITS REGIONAL
22 OFFICES. MATERIALS SHALL BE AVAILABLE AT A FEE NOT TO EXCEED THE
23 COST OF REPRODUCING THEM.

24 SECTION 6. LABELING.

25 (A) LABELING OF CONTAINER.--

26 (1) THE EMPLOYER SHALL ENSURE THAT EACH CONTAINER OF A
27 HAZARDOUS SUBSTANCE IS LABELED, TAGGED OR MARKED WITH THE
28 CHEMICAL NAME OR COMMON NAME, A HAZARD WARNING AS PROVIDED IN
29 SUBSECTION (F), AND THE NAME, ADDRESS AND TELEPHONE NUMBER OF
30 THE MANUFACTURER OF THE SUBSTANCE.

1 (2) THE EMPLOYER SHALL ENSURE THAT EACH CONTAINER OF A
2 HAZARDOUS MIXTURE IS LABELED, TAGGED OR MARKED WITH THE
3 COMMON NAME OF THE MIXTURE WHERE ONE EXISTS, OR THE TRADE
4 NAME OF THE MIXTURE, IF NO COMMON NAME EXISTS, THE CHEMICAL
5 OR COMMON NAME OF ALL SPECIAL HAZARDOUS SUBSTANCES IN THE
6 MIXTURE, THE CHEMICAL OR COMMON NAME OF ALL HAZARDOUS
7 SUBSTANCES CONSTITUTING 1% OR MORE OF THE MIXTURE, A HAZARD
8 WARNING AS PROVIDED IN SUBSECTION (F), AND THE NAME, ADDRESS
9 AND TELEPHONE NUMBER OF THE MANUFACTURER OF THE SUBSTANCE.

10 (3) THE EMPLOYER SHALL ENSURE THAT EACH CONTAINER OF A
11 SINGLE CHEMICAL IS LABELED, TAGGED OR MARKED WITH THE
12 CHEMICAL NAME OR COMMON NAME, A HAZARD WARNING AS PROVIDED IN
13 SUBSECTION (F), IF APPROPRIATE, AND THE NAME, ADDRESS AND
14 TELEPHONE NUMBER OF THE MANUFACTURER OF THE CHEMICAL.

15 (4) THE EMPLOYER SHALL ENSURE THAT EACH CONTAINER OF A
16 MIXTURE IS LABELED, TAGGED OR MARKED WITH THE COMMON NAME OF
17 THE MIXTURE WHERE ONE EXISTS, OR THE TRADE NAME OF THE
18 MIXTURE IF NO COMMON NAME EXISTS, A HAZARD WARNING AS
19 PROVIDED IN SUBSECTION (F), IF APPROPRIATE, AND THE NAME,
20 ADDRESS AND TELEPHONE NUMBER OF THE MANUFACTURER. IN
21 ADDITION, THE EMPLOYER SHALL ENSURE THAT EITHER THE TOP FIVE
22 SUBSTANCES BY VOLUME OR THOSE SUBSTANCES CONSTITUTING 5% OR
23 MORE OF THE MIXTURE, BE LABELED BY CHEMICAL NAME OR COMMON
24 NAME.

25 (5) THE EMPLOYER IS NOT REQUIRED TO LABEL ANY CONTAINER
26 OF TEN GALLONS OR LESS IN VOLUME INTO WHICH A CHEMICAL OR
27 MIXTURE IS TRANSFERRED BY THE EMPLOYEE FROM LABELED
28 CONTAINERS AND WHICH IS INTENDED ONLY FOR THE IMMEDIATE USE
29 BY THE EMPLOYEE WHO PERFORMS THE TRANSFER.

30 (6) THE EMPLOYER SHALL ENSURE THAT EACH CONTAINER OF

HAZARDOUS SUBSTANCES, HAZARDOUS MIXTURES, OR CHEMICALS
LEAVING THE WORKPLACE IS LABELED, TAGGED OR MARKED WITH THE
APPROPRIATE INFORMATION AS REQUIRED IN SUBSECTION (A)(1),
(2), (3) OR (4).

THE EMPLOYER SHALL ENSURE THAT EACH LABEL IS PROMINENTLY AFFIXED
TO THE CONTAINER OR THE PIPING SYSTEM AND DISPLAYED IN SUCH A
MANNER THAT EMPLOYEES CAN EASILY IDENTIFY THE CHEMICAL IN THAT
CONTAINER. THESE LABELING REQUIREMENTS MAY BE ALTERED ONLY IN
ACCORDANCE WITH SUBSECTIONS (B), (D) AND (F) OR SECTION 11. THE
EMPLOYER SHALL NOT REMOVE OR DEFACE EXISTING LABELS ON INCOMING
CONTAINERS OF CHEMICALS UNLESS THE CONTAINER IS IMMEDIATELY
RELABELED WITH THE REQUIRED INFORMATION. THE EMPLOYER NEED NOT
AFFIX NEW LABELS TO COMPLY WITH THIS SECTION IF EXISTING LABELS
ALREADY CONVEY THE REQUIRED INFORMATION THAT THE CHEMICAL OR
COMMON NAME ON THE CONTAINER IS THE SAME AS THAT LISTED ON THE
MSDS AND CAN BE USED BY THE EMPLOYEE AS A CROSS-REFERENCE TO THE
MSDS.

(B) COMMON NAME USAGE.--A COMMON NAME OR TRADE NAME MAY BE
USED FOR THE PURPOSE OF SUBSECTION (A)(1), (2), (3) AND (4),
ONLY IF THE USE OF SUCH NAME MORE EASILY OR READILY IDENTIFIES
THE TRUE NATURE OF A CHEMICAL OR MIXTURE. WHERE A CHEMICAL NAME
OR CHEMICAL ABSTRACTS SERVICE NUMBER EXISTS, BUT THE CONTAINER
IS NOT LABELED WITH EITHER, AN EMPLOYEE SHALL HAVE THE RIGHT TO
REQUEST, IN WRITING, THE CHEMICAL NAME OR CHEMICAL ABSTRACTS
SERVICE NUMBER OF THE SUBSTANCE, AND THE EMPLOYER SHALL HAVE
FIVE WORKING DAYS TO GIVE THE REQUIRED INFORMATION TO SAID
EMPLOYEE, IF A CHEMICAL NAME OR CHEMICAL ABSTRACT SERVICE NUMBER
IS IN THE POSSESSION OF THE EMPLOYER. IF NO CHEMICAL NAME OR
CHEMICAL ABSTRACTS SERVICE NUMBER IS IN THE POSSESSION OF THE
EMPLOYER, THE EMPLOYER SHALL NOTIFY THE REQUESTING EMPLOYEE, IN

1 WRITING, WITHIN FIVE WORKING DAYS OF THE INITIAL EMPLOYEE
2 REQUEST AND THE EMPLOYEE SHALL HAVE THE RIGHT TO REQUEST THE
3 DEPARTMENT TO SUPPLY SAID CHEMICAL NAME OR CHEMICAL ABSTRACTS
4 SERVICE NUMBER.

5 (C) PIPELINES.--THE CONTENT OF A PIPELINE SYSTEM SHALL BE
6 IDENTIFIED BY LABELS APPLIED AT OR NEAR ALL PORTS. IN THOSE
7 CASES IN WHICH MORE THAN A SINGLE SUBSTANCE MAY PASS THROUGH
8 SUCH PORTS INVOLVED IN ANY MANUFACTURING PROCESS AT ANY GIVEN
9 MOMENT, THE EMPLOYER SHALL DEVELOP METHODS TO ADEQUATELY APPRISE
10 ANYONE POTENTIALLY HAVING ACCESS TO SUCH PORTS AS TO THE
11 CONTENTS THEREIN PRIOR TO OPENING SUCH PORTS. THIS REQUIREMENT
12 OF THIS SUBSECTION SHALL NOT BE APPLICABLE TO EFFLUENTS, WATER
13 DISCHARGES AND/OR EMISSIONS THROUGH STACKS OR DISCHARGE
14 CONDUITS.

15 (D) DISPLAY OF LABEL.--THE EMPLOYER SHALL ENSURE THAT EACH
16 LABEL, SIGN, PLACARD, OR OTHER OPERATING INSTRUCTIONS REQUIRED
17 BY THIS SECTION IS LEGIBLE AND PROMINENTLY AFFIXED IN AND
18 DISPLAYED TO THE CONTAINER OR PORT IN SUCH A MANNER THAT
19 EMPLOYEES CAN EASILY IDENTIFY THE SUBSTANCE OR MIXTURE PRESENT
20 THEREIN. THE EMPLOYER MAY USE SIGNS, PLACARDS, OPERATING
21 PROCEDURES OR OTHER SUCH PRINTED MATERIALS AS ALTERNATIVES TO
22 INDIVIDUAL LABELS ON STATIONARY EQUIPMENT, AS LONG AS THE
23 ALTERNATIVES USED INDICATES THE APPROPRIATE CHEMICAL OR COMMON
24 NAME AND HAZARD WARNINGS AND IS READILY ACCESSIBLE TO EMPLOYEES
25 IN THEIR WORK AREA.

26 (E) CROSS-REFERENCE TO MSDS.--THE EMPLOYER SHALL ENSURE THAT
27 THE CHEMICAL OR COMMON NAME USED ON THE CONTAINER TO IDENTIFY A
28 HAZARDOUS SUBSTANCE OR MIXTURE IS THE SAME AS THE CHEMICAL OR
29 COMMON NAMES USED ON THE MSDS OR HAZARDOUS SUBSTANCE FACT SHEET,
30 IF THAT IS THE INFORMATION AVAILABLE FOR THE HAZARDOUS SUBSTANCE

OR MIXTURE, AND THAT THE MSDS OR HAZARDOUS SUBSTANCE FACT SHEET IS READILY AVAILABLE TO THE EMPLOYEE IN HIS WORK AREA.

(F) HAZARD WARNINGS.--EACH EMPLOYER SHALL ENSURE THAT CONTAINER LABELS PROVIDE A WARNING AS TO THE SPECIFIC NATURE OF HAZARD ARISING FROM THE SUBSTANCE IN THE CONTAINER. THE HAZARD WARNINGS SHALL BE GIVEN IN CONFORMITY WITH ONE OF THE NATIONALLY RECOGNIZED AND ACCEPTED SYSTEMS OF PROVIDING SUCH WARNINGS AND SHALL BE CONSISTENT THROUGHOUT THE WORKPLACE.

(G) EXEMPTIONS.--WHEN CONTAINERS ARE LABELED AS REQUIRED UNDER APPLICABLE FEDERAL LAWS AND REGULATIONS, THIS SECTION DOES NOT REQUIRE LABELING OF CONTAINERS WHICH CONTAIN:

(1) ANY PESTICIDES AS SUCH TERMS ARE DEFINED IN THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (7 U.S.C. § 135 ET SEQ.).

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

(3) ANY DISTILLED SPIRITS (BEVERAGE ALCOHOLS), WINE, OR MALT BEVERAGE INTENDED FOR NONINDUSTRIAL USE, AS SUCH TERMS ARE DEFINED IN THE FEDERAL ALCOHOL ADMINISTRATION ACT (27 U.S.C. § 201 ET SEQ.).

SECTION 7. NOTICE.

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

(1) LISTS OF ALL HAZARDOUS SUBSTANCES AND SPECIAL HAZARDOUS SUBSTANCES FOUND IN THAT WORKPLACE AND ALL ENVIRONMENTAL HAZARDS EMITTED OR DISCHARGED THEREFROM. IN ADDITION, UPON REQUEST, AN EMPLOYER SHALL FURNISH TO AN EMPLOYEE, A LIST OF THE HAZARDOUS SUBSTANCES USED OR PRODUCED

1 IN THAT EMPLOYEE'S WORK AREA. A NEW OR NEWLY ASSIGNED
2 EMPLOYEE SHALL BE OFFERED A LIST WHEN ASSIGNED TO A WORK
3 AREA. SUCH LISTS SHALL BE UPDATED AS NECESSARY BUT AT LEAST
4 ANNUALLY.

5 (2) NOTIFICATION TO EMPLOYEES AND THEIR REPRESENTATIVES
6 OF THEIR RIGHTS UNDER THIS ACT.

7 (3) ALL OTHER NOTICES REQUIRED BY THE DEPARTMENT TO BE
8 POSTED.

9 SECTION 8. EMPLOYER EDUCATIONAL PROGRAM.

10 (A) REQUIREMENT.--EVERY EMPLOYER SHALL PROVIDE AT LEAST AN
11 ANNUAL EDUCATION AND TRAINING PROGRAM FOR EMPLOYEES EXPOSED TO
12 HAZARDOUS SUBSTANCES OR HAZARDOUS MIXTURES WITH RESPECT TO THE
13 HAZARDOUS SUBSTANCE OR MIXTURE FOUND IN THEIR NORMAL WORK AREA.
14 ADDITIONAL INSTRUCTION SHALL BE PROVIDED WHENEVER THE POTENTIAL
15 FOR EXPOSURE TO THE HAZARDOUS SUBSTANCE IS ALTERED OR WHENEVER
16 NEW AND SIGNIFICANT INFORMATION IS RECEIVED BY THE EMPLOYER
17 CONCERNING THE HAZARDS OF THE SUBSTANCE OR MIXTURE.

18 (B) CONTENT OF PROGRAM.--EMPLOYERS SHALL FURNISH EMPLOYEES
19 WHO ARE USING OR HANDLING HAZARDOUS SUBSTANCES OR HAZARDOUS
20 MIXTURES WITH INFORMATION ON THE CONTENTS OF A MATERIAL SAFETY
21 DATA SHEET, LABEL OR EQUIVALENT INFORMATION EITHER IN WRITTEN
22 FORM OR THROUGH TRAINING PROGRAMS WHICH MAY BE GENERIC TO THE
23 EXTENT APPROPRIATE AND RELATED TO THE JOB. CONTENT OF THE
24 PROGRAM SHALL INCLUDE, AS APPROPRIATE, THE FOLLOWING INFORMATION
25 CONCERNING THE HAZARDOUS SUBSTANCES OR HAZARDOUS MIXTURES:

26 (1) THE LOCATION.

27 (2) THE PROPERTIES.

28 (3) THE CHEMICAL AND COMMON NAME.

29 (4) THE ACUTE AND CHRONIC EFFECTS.

30 (5) THE SYMPTOMS ARISING FROM EXPOSURE.

1 (6) THE POTENTIAL FOR FLAMMABILITY, EXPLOSIVITY AND
2 REACTIVITY.

3 (7) APPROPRIATE EMERGENCY TREATMENT.

4 (8) APPROPRIATE PERSONAL PROTECTIVE EQUIPMENT AND PROPER
5 CONDITIONS FOR SAFE USE.

6 (9) EMERGENCY PROCEDURES FOR SPILLS, LEAKS, FIRES,
7 PIPELINE BREAKDOWNS OR OTHER ACCIDENTS.

8 (C) EDUCATION AND TRAINING ASSISTANCE PROGRAM.--AS PART OF
9 ITS OUTREACH PROGRAM, THE DEPARTMENT SHALL DEVELOP AND MAINTAIN
10 AN EDUCATION AND TRAINING ASSISTANCE PROGRAM TO AID EMPLOYERS
11 WHO BECAUSE OF SIZE OR OTHER PRACTICAL CONSIDERATIONS, ARE
12 UNABLE TO DEVELOP SUCH PROGRAMS BY THEMSELVES. SUCH A PROGRAM
13 WOULD BE AVAILABLE TO THE EMPLOYER ON REQUEST.

14 SECTION 9. HEALTH AND EXPOSURE RECORDS.

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

22 (B) CERTAIN INFORMATION CONFIDENTIAL.--THE DEPARTMENT SHALL
23 NOT RELEASE ANY INFORMATION IN A WAY THAT IDENTIFIES
24 INDIVIDUALS. THE DEPARTMENT MAY, HOWEVER, PUBLISH ANALYSIS OF
25 REPORTS AND INFORMATION FOR SCIENTIFIC AND PUBLIC HEALTH
26 PURPOSES IF THE IDENTITIES OF THE INDIVIDUALS CONCERNED CANNOT
27 BE ASCERTAINED AND IF INFORMATION PROTECTED BY APPLICABLE TRADE
28 SECRET LAW IS NOT DIVULGED.

29 (C) RECORDS RETENTION REQUIREMENT.--THE DEPARTMENT SHALL
30 REQUIRE AN EMPLOYER TO KEEP RECORDS OF HIS EMPLOYEES' EXPOSURE

1 TO SPECIFIC CHEMICAL SUBSTANCES TO THE EXTENT THAT SUCH ARE
2 REQUIRED UNDER 29 CFR 1910.20(G) (RELATING TO EMPLOYEE
3 INFORMATION).

4 (D) EMPLOYEE ACCESS.--EMPLOYEES UNDER THIS ACT SHALL HAVE
5 THE RIGHT OF ACCESS TO EXPOSURE AND MEDICAL RECORDS IN THE
6 MANNER SET FORTH BY OSHA PURSUANT TO 29 CFR 1910.20 (RELATING TO
7 ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS), AS EFFECTIVE
8 AUGUST 21, 1980.

9 SECTION 10. OUTREACH PROGRAMS.

10 (A) DUTY OF THE DEPARTMENT.--THE DEPARTMENT SHALL DEVELOP
11 AND IMPLEMENT OUTREACH PROGRAMS TO INFORM EMPLOYEES AND THE
12 GENERAL PUBLIC OF THEIR RESPECTIVE RIGHTS UNDER THIS ACT AND TO
13 EDUCATE AND INFORM EMPLOYERS, EMPLOYEES AND THE PUBLIC,
14 CONCERNING HAZARDOUS AND OTHER DANGEROUS SUBSTANCES, INCLUDING,
15 BUT NOT LIMITED TO, THEIR DANGERS, THEIR PROPER HANDLING AND
16 DISPOSAL AND EMERGENCY TREATMENT. THE DEPARTMENT SHALL PREPARE
17 THIS INFORMATION IN A CLEAR AND CONCISE MANNER USING WORDS WITH
18 COMMON AND EVERYDAY MEANINGS. THE DEPARTMENT SHALL ALSO ENSURE
19 THAT ALL WRITTEN MATERIALS ARE AVAILABLE IN SPANISH, INCLUDING
20 DEPARTMENTAL NOTICES, HAZARDOUS SUBSTANCE FACT SHEETS, EDUCATION
21 AND PUBLIC INFORMATION MATERIALS.

22 (B) CONTRACTS WITH OTHER AGENCIES TO DEVELOP PROGRAM.--THE
23 DEPARTMENT MAY CONTRACT WITH PUBLIC AND PRIVATE ORGANIZATIONS TO
24 DEVELOP AND IMPLEMENT THE OUTREACH AND EMPLOYEE EDUCATION
25 PROGRAMS ESTABLISHED PURSUANT TO THIS ACT.

26 (C) PUBLIC INFORMATION.--AS PART OF THE OUTREACH PROGRAMS,
27 THE DEPARTMENT SHALL DEVELOP AND MAINTAIN A SUPPLY OF
28 INFORMATIONAL LEAFLETS IN PUBLIC BUILDINGS, INCLUDING EMPLOYMENT
29 SERVICES, OFFICES OF THE OFFICE OF EMPLOYMENT SECURITY,
30 INSTITUTIONS AND FACILITIES UNDER THE SUPERVISION OR CONTROL OF

1 THE DEPARTMENT, HOSPITALS, UNION HALLS, COMMUNITY CENTERS,
2 SCHOOLS AND LOCAL AGENCIES PROVIDING SERVICES TO EMPLOYERS AND
3 EMPLOYEES. THE DEPARTMENT SHALL MAIL THESE LEAFLETS TO EMPLOYERS
4 AND SHALL PERIODICALLY DISTRIBUTE PUBLIC SERVICE ANNOUNCEMENTS
5 TO NEWSPAPERS, TELEVISION AND RADIO STATIONS THROUGHOUT THE
6 COMMONWEALTH TO FURTHER THE GOALS OF THE OUTREACH PROGRAM.

7 (D) HAZARDOUS SUBSTANCE FACT SHEETS.--THE DEPARTMENT MAY
8 PRODUCE AND DISSEMINATE TO THE PUBLIC A HAZARDOUS SUBSTANCE FACT
9 SHEET FOR ANY HAZARDOUS SUBSTANCE. THE CATEGORIES OF INFORMATION
10 CONTAINED THEREIN SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
11 INFORMATION CONTAINED IN A MATERIAL SAFETY DATA SHEET. THE
12 DEPARTMENT MAY REQUIRE EMPLOYERS TO SUPPLY THE HAZARDOUS
13 SUBSTANCE FACT SHEET TO REQUESTING EMPLOYEES INSTEAD OF THE
14 SUPPLIER'S MATERIAL SAFETY DATA SHEET.

15 SECTION 11. TRADE SECRETS.

16 (A) TRADE SECRET CLAIMS.--ANY IMPORTER, EMPLOYER,
17 MANUFACTURER OR SUPPLIER MAY WITHHOLD THE CHEMICAL NAME OR OTHER
18 SPECIFIC IDENTIFICATION OF A CHEMICAL AS A TRADE SECRET,
19 PROVIDED THAT:

20 (1) THE CLAIM THAT THE INFORMATION WITHHELD IS A TRADE
21 SECRET CAN BE SUPPORTED BY THE PERSON MAKING THE CLAIM.

22 (2) THE MATERIAL SAFETY DATA SHEET DISCLOSES THE
23 INFORMATION CONCERNING THE PROPERTIES AND EFFECTS OF THE
24 CHEMICAL, IF SAID CHEMICAL IS A HAZARDOUS SUBSTANCE OR
25 MIXTURE.

26 (3) THE LABEL AND MATERIAL SAFETY DATA SHEET INDICATES
27 THAT THE SPECIFIC CHEMICAL IDENTITY IS BEING WITHHELD AS A
28 TRADE SECRET.

29 (4) THE SPECIFIC CHEMICAL IDENTITY IS MADE AVAILABLE TO
30 HEALTH PROFESSIONALS IN ACCORDANCE WITH THIS SECTION.

(5) THE PERSON MAKING THE CLAIM FILES A NOTICE OF SAID CLAIM WITH THE DEPARTMENT. SAID NOTICE SHALL NOT REQUIRE THE PERSON MAKING THE CLAIM TO DISCLOSE THE INFORMATION WHICH IS CLAIMED TO BE A TRADE SECRET.

(B) DISCLOSURE TO TREATING PHYSICIANS AND NURSES.-- NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, AN EMPLOYER, MANUFACTURER, IMPORTER OR SUPPLIER SHALL DISCLOSE THE CHEMICAL IDENTIFICATION OR OTHER INFORMATION CLAIMED AS A TRADE SECRET TO A TREATING PHYSICIAN OR NURSE WHEN SUCH INFORMATION IS NEEDED FOR MEDICAL DIAGNOSIS OR TREATMENT OF AN EXPOSED PERSON. THE EMPLOYER, MANUFACTURER, IMPORTER OR SUPPLIER MAY REQUIRE THE PHYSICIAN OR NURSE TO SIGN A CONFIDENTIALITY AGREEMENT BEFORE DISCLOSING THE TRADE SECRET. IN THE CASE OF A MEDICAL EMERGENCY, THE EMPLOYER, MANUFACTURER, IMPORTER OR SUPPLIER SHALL FIRST DISCLOSE THE TRADE SECRET TO THE TREATING PHYSICIAN OR NURSE BUT MAY LATER REQUIRE A CONFIDENTIALITY AGREEMENT WHEN CIRCUMSTANCES PERMIT.

(C) DISCLOSURE TO OTHER HEALTH PROFESSIONALS.--UPON THE REQUEST OF A HEALTH PROFESSIONAL WHO IS NOT A TREATING PHYSICIAN OR NURSE, AN EMPLOYER, SUPPLIER, MANUFACTURER OR IMPORTER SHALL DISCLOSE INFORMATION WHICH IS CLAIMED AS A TRADE SECRET UNDER THE SAME CONDITIONS AND SUBJECT TO THE SAME REQUIREMENTS AS CONTAINED IN THE OSHA HAZARD COMMUNICATION STANDARD, 29 CFR SEC. 1900.1200(I)(3), (4) AND (7). A HEALTH PROFESSIONAL WHO IS DENIED SUCH INFORMATION UNDER THIS SECTION MAY FILE A COMPLAINT OR CHARGE WITH THE DEPARTMENT. IF THE DEPARTMENT CONCLUDES THAT THE INFORMATION IS NOT A BONA FIDE TRADE SECRET, OR THAT IT IS A TRADE SECRET BUT THE REQUESTING HEALTH PROFESSIONAL HAS A LEGITIMATE MEDICAL OR OCCUPATIONAL HEALTH NEED FOR THE INFORMATION, HAS EXECUTED A WRITTEN CONFIDENTIALITY AGREEMENT,

1 AND HAS SHOWN ADEQUATE MEANS TO PROTECT THE CONFIDENTIALITY OF
2 THE INFORMATION, THE DEPARTMENT MAY FIND THE EMPLOYER, SUPPLIER,
3 MANUFACTURER OR IMPORTER IN VIOLATION OF THIS ACT AND ORDER THEM
4 TO DISCLOSE THE REQUESTED INFORMATION TO THE HEALTH
5 PROFESSIONAL.

6 (D) CONFIDENTIALITY AGREEMENT RESTRICTIONS.--THE
7 CONFIDENTIALITY AGREEMENT AUTHORIZED BY SUBSECTION (B) MAY
8 RESTRICT THE USE OF THE INFORMATION TO PROVIDING MEDICAL OR
9 OTHER OCCUPATIONAL HEALTH SERVICES TO THE EXPOSED PERSON,
10 PROHIBIT DISCLOSURE OF THE INFORMATION TO ANYONE WHO HAS NOT
11 ENTERED INTO A SIMILAR AGREEMENT WITH THE CONSENT OF THE PERSON
12 CLAIMING THE TRADE SECRET, AND PROVIDE FOR APPROPRIATE LEGAL
13 REMEDIES IN THE EVENT OF A BREACH OF THE AGREEMENT. NO
14 CONFIDENTIALITY AGREEMENT SHALL INCLUDE REQUIREMENTS FOR THE
15 POSTING OF A PENALTY BOND.

16 (E) REQUEST FOR REVIEW OF TRADE SECRET CLAIMS.--ANY PERSON
17 MAY REQUEST THE DEPARTMENT TO REVIEW TRADE SECRET CLAIMS MADE
18 HEREUNDER: PROVIDED, THAT ANY APPEAL FROM THE DECISION OF THE
19 DEPARTMENT SHALL NOT GIVE SAID PERSON THE RIGHT OF ACCESS TO ANY
20 INFORMATION CONSIDERED CONFIDENTIAL IN SUBSECTION (F)(2).

21 (F) REVIEW OF TRADE SECRET CLAIMS.--UPON REQUEST BY ANY
22 PERSON, OR UPON ITS OWN INITIATIVE, THE DEPARTMENT MAY REVIEW
23 TRADE SECRET CLAIMS AS PROVIDED HEREIN:

24 (1) WITHIN 30 DAYS OF RECEIPT OF A REQUEST FOR REVIEW OF
25 A TRADE SECRET CLAIM, THE DEPARTMENT SHALL NOTIFY THE PERSON
26 MAKING THE CLAIM AND REQUIRE THE PERSON TO FILE AN
27 APPLICATION AND SUPPORTING EVIDENCE. ALL PROCEEDINGS SHALL BE
28 IN CONFORMITY WITH TITLE 1 OF THE PENNSYLVANIA CODE (RELATING
29 TO GENERAL PROVISIONS). IF THE DEPARTMENT FINDS THAT THE
30 INFORMATION IN QUESTION IS NOT A TRADE SECRET AS DEFINED BY

1 THIS ACT, IT SHALL ORDER DISCLOSURE OF THE INFORMATION. SUCH
2 ORDER SHALL BE A FINAL ADJUDICATION APPEALABLE TO THE
3 COMMONWEALTH COURT. ANY APPEAL SHALL ACT AS A STAY TO ANY
4 ORDER OF THE DEPARTMENT OR ANY COURT WHICH REQUIRES
5 DISCLOSURE.

6 (2) ALL TRADE SECRET APPLICATIONS, PLEADINGS, HEARING
7 TRANSCRIPTS, DOCUMENTS AND OTHER RECORDS FILED WITH THE
8 DEPARTMENT OR ANY COURT PURSUANT TO A REVIEW OF TRADE SECRET
9 CLAIMS OR APPEALS THEREOF SHALL BE CONFIDENTIAL AND SHALL NOT
10 BE DISCLOSED TO THE PUBLIC. THE NOTICE OF CLAIM FILED WITH
11 THE DEPARTMENT AND ANY PETITION FOR REVIEW OR OTHER PLEADING
12 FILED WITH THE COURTS WHICH DO NOT REVEAL EITHER THE TRADE
13 SECRET OR ANY INFORMATION CLAIMED AS CONFIDENTIAL SHALL BE
14 CONSIDERED AS PUBLIC RECORDS. ALL RECORDS THAT REVEAL EITHER
15 THE TRADE SECRET OR ANY INFORMATION CLAIMED AS CONFIDENTIAL
16 SHALL BE SEALED AND HELD AS CONFIDENTIAL BY THE DEPARTMENT
17 OR, UPON REQUEST, RETURNED TO THE EMPLOYER, SUPPLIER,
18 MANUFACTURER OR IMPORTER AT THE CLOSE OF ALL PROCEEDINGS
19 HEREUNDER. ALL HEARINGS PROVIDED FOR UNDER THIS SECTION SHALL
20 BE CLOSED TO ALL PERSONS EXCEPT THE EMPLOYER, SUPPLIER,
21 MANUFACTURER OR IMPORTER AND THE DEPARTMENT.

22 (G) PENALTY.--ANY OFFICER OR EMPLOYEE OF THE COMMONWEALTH,
23 CONTRACTOR TO THE COMMONWEALTH, PHYSICIAN OR EMPLOYEE OF A
24 COUNTY HEALTH DEPARTMENT, LOCAL FIRE DEPARTMENT OR LOCAL POLICE
25 DEPARTMENT WHO HAS ACCESS TO ANY CONFIDENTIAL INFORMATION AND
26 WHO WILLINGLY OR KNOWINGLY DISCLOSES THE CONFIDENTIAL
27 INFORMATION TO ANY PERSON NOT AUTHORIZED TO RECEIVE IT, SHALL,
28 UPON CONVICTION THEREOF, BE GUILTY OF A MISDEMEANOR OF THE THIRD
29 DEGREE. THE PERSON OR INSTITUTION WHICH DISCLOSES THE
30 CONFIDENTIAL INFORMATION IS LIABLE FOR DAMAGES TO THE FULL

EXTENT OF THOSE DAMAGES. VIOLATION OF THIS SECTION SHALL BE
PRIMA FACIE EVIDENCE OF TRESPASS UNDER PENNSYLVANIA COMMON LAW.

(H) PROTECTION OF CONFIDENTIAL INFORMATION.--INFORMATION
CERTIFIED TO BY APPROPRIATE OFFICIALS OF THE FEDERAL GOVERNMENT
AS "NECESSARILY KEPT SECRET" FOR NATIONAL DEFENSE PURPOSES SHALL
BE ACCORDED THE FULL PROTECTION AGAINST DISCLOSURE AS SPECIFIED
BY SUCH OFFICIAL OR IN ACCORDANCE WITH FEDERAL LAW.

SECTION 12. RISK TO PUBLIC HEALTH.

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

SECTION 13. PROTECTION OF EMPLOYEES.

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

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

1 (C) WAIVERS INVALID.--ANY WAIVER BY AN EMPLOYEE OR APPLICANT
2 FOR EMPLOYMENT OF THE BENEFITS OR REQUIREMENTS OF THIS ACT SHALL
3 BE AGAINST PUBLIC POLICY AND SHALL BE NULL AND VOID. ANY
4 EMPLOYER'S REQUEST OR REQUIREMENT THAT AN EMPLOYEE WAIVE ANY
5 RIGHTS UNDER THIS ACT AS A CONDITION OF EMPLOYMENT SHALL
6 CONSTITUTE A VIOLATION.

7 SECTION 14. COMPLAINTS AND INVESTIGATIONS.

8 (A) PROCEDURE.--THE DEPARTMENT IS HEREBY EMPOWERED TO
9 PREVENT ANY VIOLATIONS OF THIS ACT. ALL PROCEEDINGS UNDER THIS
10 SECTION WILL BE SCHEDULED AND DECISIONS RENDERED WITH ALL
11 DELIBERATE SPEED IN THE INTERESTS OF PROTECTING EMPLOYEES AND
12 MEMBERS OF THE PUBLIC FROM THE DANGERS OF CHEMICAL SUBSTANCES.
13 ANY PERSON WHO BELIEVES THERE IS A VIOLATION BY AN EMPLOYER OR
14 SUPPLIER OF THIS ACT OR ANY PART THEREOF, MAY FILE A COMPLAINT
15 WITHIN 180 DAYS OF THE VIOLATION WITH THE DEPARTMENT. THE
16 COMPLAINT SHALL BE IN WRITING, VERIFIED, AND SHALL SET FORTH THE
17 GROUNDS FOR THE COMPLAINT. UPON REQUEST OF THE COMPLAINANT, HIS
18 OR HER IDENTITY SHALL NOT BE REVEALED. WITHIN 30 DAYS AFTER
19 RECEIPT OF THE COMPLAINT, THE DEPARTMENT SHALL SO NOTIFY THE
20 RESPONDENT IN WRITING AND PERMIT THE RESPONDENT TO DEMONSTRATE
21 COMPLIANCE WITH THIS ACT. IF SUCH COMPLIANCE HAS NOT BEEN
22 DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE TO THE DEPARTMENT
23 WITHIN 14 DAYS OF THE MAILING OF THE NOTIFICATION, AND IF THE
24 FACTS IN CONTROVERSY ARE SUSCEPTIBLE TO VERIFICATION BY
25 INSPECTION, AN EMPLOYEE OF THE DEPARTMENT SHALL INSPECT, AT
26 REASONABLE TIMES, THE EMPLOYER'S WORKPLACE AND ALL CONDITIONS
27 RELEVANT TO THE COMPLAINT AND SHALL, IN REASONABLE MANNER, MAKE
28 ANY ADDITIONAL INVESTIGATION DEEMED NECESSARY FOR THE FULL AND
29 EFFECTIVE DETERMINATION OF THE EMPLOYER'S OR SUPPLIER'S
30 COMPLIANCE WITH THIS ACT. WHENEVER THE REPRESENTATIVE OF THE

1 DEPARTMENT PROCEEDING UNDER THIS SECTION IS DENIED ADMISSION TO
2 ANY PLACE OF EMPLOYMENT, HE MAY OBTAIN A WARRANT TO MAKE AN
3 INSPECTION OR INVESTIGATION OF THE PLACE OF EMPLOYMENT FROM THE
4 APPROPRIATE JUDICIAL AUTHORITY UPON A SHOWING OF THE FOLLOWING:

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

7 (2) THAT SUCH INDIVIDUAL HAS ESTABLISHED UNDER OATH OR
8 AFFIRMATION THAT THE PLACE OF EMPLOYMENT TO BE INVESTIGATED
9 IN ACCORDANCE WITH THIS SECTION IS TO BE INSPECTED TO
10 DETERMINE COMPLIANCE OR NONCOMPLIANCE WITH THE REQUIREMENTS
11 OF THIS ACT.

12 (B) PREREFUSAL WARRANT.--UPON APPLICATION TO THE APPROPRIATE
13 JUDICIAL AUTHORITY AND FOR GOOD CAUSE SHOWN, THE DEPARTMENT MAY
14 SEEK AND OBTAIN AN INSPECTION WARRANT PRIOR TO THE 14-DAY PERIOD
15 SET FORTH IN SUBSECTION (A) AND PRIOR TO ANY REFUSAL BY
16 RESPONDENT TO VOLUNTARILY ADMIT A REPRESENTATIVE OF THE
17 DEPARTMENT.

18 (C) ISSUANCE AND CONTENT OF ORDER.--IF, UPON INSPECTION OR
19 INVESTIGATION OF A COMPLAINT, THE DEPARTMENT FINDS THAT A
20 RESPONDENT HAS VIOLATED ANY REQUIREMENTS OF THIS ACT, IT SHALL
21 WITHIN SEVEN DAYS ISSUE TO THE RESPONDENT AN ORDER TO COMPLY.
22 THIS ORDER SHALL BE IN WRITING AND SHALL SPECIFICALLY DESCRIBE
23 THE NATURE OF THE VIOLATION AND SHALL STATE A REASONABLE TIME
24 PERIOD, NOT TO EXCEED 90 DAYS, WITHIN WHICH THE VIOLATION MUST
25 BE CORRECTED BY THE EMPLOYER.

26 (D) CIVIL PENALTIES.--THE DEPARTMENT SHALL HAVE AUTHORITY TO
27 ASSESS ANY CIVIL PENALTIES FROM \$500 TO \$10,000 FOR EACH
28 VIOLATION OF THIS ACT, UNLESS A GREATER AMOUNT IS SPECIFIED
29 ELSEWHERE IN THIS ACT, GIVING DUE CONSIDERATION TO THE
30 APPROPRIATENESS OF THE PENALTY WITH RESPECT TO THE SIZE OF THE

1 BUSINESS OF THE EMPLOYER BEING CHARGED, THE GRAVITY OF THE
2 VIOLATION, THE GOOD FAITH OF THE RESPONDENT AND THE HISTORY OF
3 PREVIOUS VIOLATIONS. IF THE VIOLATION HAS NOT BEEN CORRECTED
4 WITHIN THE TIME PERIOD, THE DEPARTMENT MAY LEVY A FURTHER CIVIL
5 PENALTY OF NOT MORE THAN \$5,000 PER DAY FOR EACH VIOLATION.
6 CIVIL PENALTIES DUE UNDER THIS ACT SHALL BE PAID TO THE
7 DEPARTMENT FOR DEPOSIT INTO THE STATE TREASURY AND MAY BE
8 COLLECTED BY THE DEPARTMENT IN A CIVIL ACTION BROUGHT IN THE
9 APPROPRIATE COURT OF COMMON PLEAS. THE PENALTIES COLLECTED SHALL
10 BE USED TO DEFRAY THE COSTS OF THE ADMINISTRATION AND
11 ENFORCEMENT OF THIS ACT.

12 (E) HEARINGS.--THE RESPONDENT MAY, IN WRITING, REQUEST THE
13 DEPARTMENT TO PROVIDE A HEARING CONCERNING ANY ORDERS TO COMPLY
14 OR PENALTIES LEVIED UPON THE EMPLOYER UNDER THIS SECTION WITHIN
15 30 DAYS OF THE RESPONDENT'S RECEIPT OF NOTICE THEREOF. THE
16 HEARING SHALL BE AFFORDED IN ACCORDANCE WITH TITLE 2 OF THE
17 PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO ADMINISTRATIVE
18 LAW AND PROCEDURE). AFTER THE HEARING, THE DEPARTMENT SHALL
19 AFFIRM, REVERSE OR MODIFY ITS ORIGINAL DETERMINATION.

20 (F) PRELIMINARY RELIEF.--WHERE THE DEPARTMENT DETERMINES
21 THAT REASONABLE CAUSE EXISTS TO BELIEVE A VIOLATION HAS
22 OCCURRED, AND THAT SAID VIOLATION MAY PRESENT AN IMMINENT DANGER
23 TO ANY EMPLOYEE OR MEMBER OF THE PUBLIC, THE DEPARTMENT SHALL
24 SEEK A PRELIMINARY OR SPECIAL INJUNCTION IN THE APPROPRIATE
25 COURT OF COMMON PLEAS. THE COURTS OF COMMON PLEAS ARE HEREBY
26 EMPOWERED TO, AND SHALL ISSUE SAID INJUNCTIVE RELIEF UPON A
27 PRIMA FACIE SHOWING BY THE DEPARTMENT OF A VIOLATION AND A
28 SHOWING BY A PREPONDERANCE OF THE EVIDENCE THAT AN IMMINENT
29 DANGER SITUATION IS PRESENT.

30 (G) INTERFERENCE WITH INSPECTION.--ANY EMPLOYER OR

1 INDIVIDUAL WHO WILLFULLY OBSTRUCTS OR IMPEDES AN AUTHORIZED
2 REPRESENTATIVE OF THE DEPARTMENT FROM CARRYING OUT AN
3 INVESTIGATION OR INSPECTION PURSUANT TO THIS ACT OR WHO REFUSES
4 ENTRY TO AN AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT TO ANY
5 WORKPLACE WHERE SUCH INSPECTION IS AUTHORIZED BY A WARRANT,
6 SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$1,000. ANY
7 PERSON WHO GIVES ADVANCE NOTICE OF ANY INSPECTION TO BE
8 CONDUCTED UNDER THIS ACT, WITHOUT AUTHORITY FROM THE DEPARTMENT,
9 SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$1,000.

10 SECTION 15. JUDICIAL REVIEW AND ENFORCEMENT.

11 (A) APPELLATE REVIEW.--ANY PERSON OR PERSONS AGGRIEVED BY A
12 FINAL DETERMINATION OF THE DEPARTMENT PURSUANT TO SECTIONS 11
13 AND 14 MAY FILE A PETITION FOR REVIEW WITHIN 30 DAYS OF SAID
14 DETERMINATION IN THE COMMONWEALTH COURT PURSUANT TO 42 PA.C.S. §
15 763(A) (RELATING TO DIRECT APPEALS FROM GOVERNMENT AGENCIES).
16 THE DECISION OF THE DEPARTMENT SHALL NOT BE REVERSED OR MODIFIED
17 UNLESS SAID DECISION IS FOUND TO BE ARBITRARY, CAPRICIOUS,
18 ILLEGAL OR NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

19 (B) ORIGINAL ACTION.--ANY PERSON MAY BRING A CIVIL ACTION IN
20 THE APPROPRIATE COURT OF COMMON PLEAS ON HIS OWN BEHALF AGAINST
21 ANY EMPLOYER OR SUPPLIER FOR A VIOLATION OF ANY PROVISION OF
22 THIS ACT OR ANY RULE PROMULGATED PURSUANT THERETO, OR MAY BRING
23 SUIT IN THE COMMONWEALTH COURT AGAINST THE DEPARTMENT FOR
24 FAILURE TO ENFORCE THE PROVISIONS OF THIS ACT OR ANY RULE
25 PROMULGATED PURSUANT THERETO. WHERE THE ACTION INVOLVES THE
26 RIGHTS OF MORE THAN ONE EMPLOYEE, ANY CERTIFIED OR RECOGNIZED
27 COLLECTIVE BARGAINING REPRESENTATIVE SHALL HAVE STANDING TO SUE
28 ON BEHALF OF SAID EMPLOYEES. THE COURT MAY ISSUE, WHENEVER IT
29 DEEMS APPROPRIATE, A PRELIMINARY, PERMANENT OR SPECIAL
30 INJUNCTION AND AWARD COMPENSATORY AND LIQUIDATED DAMAGES, COSTS

1 AND EXPENSES OF LITIGATION, INCLUDING EXPERT WITNESS FEES AND
2 REASONABLE ATTORNEY FEES.

3 SECTION 16. FALSE STATEMENTS AND INTENTIONAL OMISSIONS.

4 ANY PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT,
5 REPRESENTATION OR CERTIFICATION IN ANY LIST, RECORD OR OTHER
6 DOCUMENT REQUIRED TO BE MAINTAINED PURSUANT TO THIS ACT OR WHO
7 INTENTIONALLY OR DELIBERATELY REFRAINS FROM COMPLYING WITH THIS
8 ACT SHALL BE ASSESSED A CIVIL PENALTY OF NOT MORE THAN \$10,000,
9 OR SHALL BE GUILTY OF A CRIMINAL OFFENSE CLASSED AS A
10 MISDEMEANOR OF THE FIRST DEGREE, OR BOTH. ANY EMPLOYER OR
11 SUPPLIER WHO WILLFULLY OR RECKLESSLY PREPARES A MATERIAL SAFETY
12 DATA SHEET FOR THE PURPOSE OF WITHHOLDING OR FALSIFYING RELEVANT
13 INFORMATION CONCERNING THE NATURE AND SEVERITY OF THE HAZARDOUS
14 NATURE OF THE SUBSTANCE SHALL BE ASSESSED A CIVIL PENALTY OF NOT
15 MORE THAN \$10,000 OR SHALL BE GUILTY OF A CRIMINAL OFFENSE
16 CLASSED AS A MISDEMEANOR OF THE FIRST DEGREE, OR BOTH.

17 SECTION 17. RULES AND REGULATIONS.

18 THE DEPARTMENT SHALL, IN THE MANNER PROVIDED BY LAW,
19 PROMULGATE SUCH RULES AND REGULATIONS AND PROVIDE SUCH FORMS AND
20 WRITTEN MATERIALS AS ARE NECESSARY TO CARRY OUT THE PROVISIONS
21 OF THIS ACT.

22 SECTION 18. CONSTRUCTION OF ACT.

23 (A) NO RELEASE FROM LIABILITY.--NOTHING IN THIS ACT SHALL IN
24 ANY WAY RELIEVE AN EMPLOYER OR SUPPLIER FROM LIABILITY WITH
25 REGARD TO THE HEALTH AND SAFETY OF AN EMPLOYEE OR OTHER PERSONS
26 EXPOSED TO ANY SUBSTANCES, NOR SHALL IT RELIEVE AN EMPLOYER OR
27 SUPPLIER FROM ANY OTHER DUTY OR RESPONSIBILITY UNDER ANY OTHER
28 PROVISION OF LAW.

29 (B) CONSTRUCTION WITH FEDERAL LAW.--THIS ACT IS TO BE READ
30 IN CONJUNCTION WITH ANY PROVISION OF FEDERAL LAW PROVIDING FOR

1 THE IDENTIFICATION, LABELING OR PROVIDING OF INFORMATION
2 CONCERNING HAZARDOUS SUBSTANCES AND IS INTENDED TO SUPPLEMENT
3 SUCH FEDERAL REGULATION IN THE INTERESTS OF PROTECTING THE
4 HEALTH AND SAFETY OF CITIZENS OF THE COMMONWEALTH.

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

9 SECTION 19. SEVERABILITY.

10 THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY PROVISION OF
11 THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES HELD
12 INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR
13 APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE
14 INVALID PROVISION OR APPLICATION.

15 SECTION 20. APPROPRIATION.

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

19 SECTION 21. EMERGENCY INFORMATION.

20 AN EMPLOYER, DISTRIBUTOR OR IMPORTER WHO HAS OVER 110 GALLONS
21 OR 1,000 POUNDS OF HAZARDOUS SUBSTANCES WITHIN HIS WORKPLACE,
22 SHALL INFORM POLICE, FIRE AND EMERGENCY OFFICIALS OF THE
23 POLITICAL SUBDIVISIONS IN WHICH THE WORKPLACE IS LOCATED OF THE
24 PRESENCE OF THESE HAZARDOUS SUBSTANCES AND THE NAME AND
25 TELEPHONE NUMBER OF TWO RESPONSIBLE REPRESENTATIVES OF THE
26 EMPLOYER (FOR EXAMPLE, MANAGER OR FOREMAN) WHO CAN BE CONTACTED
27 IN CASE OF AN EMERGENCY. UPON REQUEST, THE EMPLOYER OR IMPORTER
28 SHALL ALSO PROVIDE FURTHER INFORMATION TO THESE OFFICIALS
29 CONCERNING THESE HAZARDOUS SUBSTANCES, INCLUDING THEIR AVERAGE
30 APPROXIMATE QUANTITIES, THEIR LOCATION WITHIN THE WORKPLACE AND

1 AN MSDS FOR EACH HAZARDOUS SUBSTANCE. THESE POLICE, FIRE AND
2 EMERGENCY OFFICIALS SHALL ALSO BE ALLOWED TO TOUR ANY WORKPLACE
3 DURING BUSINESS HOURS SO THAT AN APPROPRIATE EMERGENCY RESPONSE
4 PLAN CAN BE DEVELOPED.

5 SECTION 22. EFFECTIVE DATE.

6 (A) SECTION 3 SHALL TAKE EFFECT IN 180 DAYS.

7 (B) SECTIONS 4(B), 5(C)(2) AND (D) AND 6(A)(1) AND (2) SHALL
8 TAKE EFFECT ONE YEAR AFTER THE PROMULGATION OF REGULATIONS.

9 (C) SECTION 6(A)(3) AND (4) SHALL TAKE EFFECT TWO YEARS
10 AFTER THE PROMULGATION OF REGULATIONS.

11 (D) THE OBLIGATION OF THE DEPARTMENT TO CREATE LISTS OF
12 HAZARDOUS SUBSTANCES AND THE POWER OF THE DEPARTMENT TO MAKE
13 RULES AND REGULATIONS SHALL TAKE EFFECT IMMEDIATELY, AND THE
14 DEPARTMENT SHALL MAIL TO EACH EMPLOYER COPIES OF SAID LISTS
15 WITHIN SIX MONTHS.

16 (E) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN ONE YEAR.