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BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

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How Effective Are OSHA's Complaint Procedures?

Virtually every complaint the Occupational Safety and Health Administration and States receive alleging workplace hazards results in an inspection. However, inspectors find that most of these alleged hazards do not violate safety or health standards and involve workplaces which are not in high-risk industries.

Because enforcement staffs are too small to handle the growing backlog of complaints, they should evaluate them and try to resolve those not involving serious hazards by some means other than inspections. This would allow for quicker resolution and more inspections in high-risk areas.



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COMPTROLLER GENERAL OF THE UNITED STATES

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To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the need for the Occupational Safety and Health Administration and States to evaluate workers' complaints and to attempt to resolve those complaints involving hazards that do not threaten serious harm by a method other than an inspection.

We made our review because of congressional and public interest in assuring that workers are adequately protected from workplace hazards that can cause serious injury or death.

We are sending copies of this report to the Director, Office of Management and Budget, and the Secretary of Labor.

A handwritten signature in black ink, appearing to read "Thomas A. Heath".

Comptroller General
of the United States



D I G E S T

The Occupational Safety and Health Administration (OSHA) and States have a limited number of inspectors to follow up on the large number of complaints about workplace hazards. Because of this, their procedures to resolve complaints need revision. The Occupational Safety and Health Act requires an investigation, if there is reasonable evidence of imminent danger or a violation of a safety or health standard that threatens physical harm. Although most complaints do not meet the formality requirements of the act, nearly all complaints are investigated.

Starting in 1977 inspections for alleged hazards began to increase substantially. In fiscal year 1978, the agency and States operating under approved plans made about 188,000 inspections, of which about 37,000 were in response to complaints. As workers continue to become aware of the physical protection that the act should insure, the volume of complaints is expected to continue.

3 { GAO reviewed OSHA and State procedures for responding to complaints to determine if the agency and the States were making the best use of the limited number of inspectors and protecting workers from workplace hazards.

GAO found that:

10 --Complaint inspections were of little value in protecting workers from serious hazards. Most complaints GAO reviewed came from workplaces that OSHA would not visit on its own initiative because they were not part of a high-risk industry. Also, most complaints--about 80 percent of the cases GAO reviewed--did not appear to address serious hazards or involve violations of standards. (See p. 9.)

--Usually, complaints were handled by a workplace inspection; however, some complaints could be resolved without such inspections. (See p. 13.)

--Initial complaint information was generally vague, and although better information was available, it was not sought. (See p. 19.)

--A backlog of health complaints existed at all the offices visited. (See p. 8.)

*Thoroughness
sometimes involving follow-ups*

--Complaints involving potentially serious hazards sometimes were not investigated soon enough. Also, although files often did not adequately show the scope of the inspection, inspectors frequently followed up only the alleged hazard and not other work areas where potentially serious hazards were likely to exist. (See p. 25.)

RECOMMENDATIONS TO THE SECRETARY OF LABOR

The Secretary of Labor should direct the Occupational Safety and Health Administration and the States to

- ① --develop criteria for screening safety and health complaints,
- ② --evaluate each complaint and try to resolve nonformal complaints considered less than serious by means other than a workplace inspection,
- ③ --identify vague health complaints and use cross-trained safety inspectors to obtain *clear* additional information needed,
- ④ --develop inspection procedures which require that potentially serious worksite hazards are looked for when an inspector visits a worksite on a complaint inspection,
- ⑤ --make sure that *issue* timely complaint inspections are made when the alleged hazards are believed potentially serious, and

⑥--insure that inspectors adequately document the scope and the results of complaint inspections.

AGENCY COMMENTS

Labor agreed with GAO's findings and recommendations and has either taken or is considering actions to improve its procedures. Such proposed actions, if properly implemented, should result in program improvements. However, Labor must take additional actions to make sure that its limited staff is better used in resolving complaints. (See pp. 23 and 29.)

RECOMMENDATION TO THE CONGRESS

The Congress should amend section 8(f) of the Occupational Safety and Health Act of 1970 to give OSHA authority to resolve formal complaints without inspections when the complaints do not involve potential hazards that can cause death or serious physical harm.



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ABBREVIATIONS

GAO	General Accounting Office
OSHA	Occupational Safety and Health Administration

CHAPTER 1

INTRODUCTION

In passing the Occupational Safety and Health Act of 1970 (29 U.S.C. 651), the Congress sought to assure safe and healthful working conditions for every worker in the Nation. The act gives the Secretary of Labor the authority to establish and enforce national occupational safety and health standards. Workplaces are inspected and working conditions evaluated to determine compliance with the act and established standards.

The Occupational Safety and Health Administration (OSHA) ^{AGC 00494} was assigned the responsibility of administering the act. OSHA is a decentralized organization with 10 regional offices and 87 area offices. The headquarters office develops policies and guidelines for program administration. Regional offices are responsible for coordinating and administering the OSHA program. Area office compliance safety and health officers make compliance inspections.

States also enforce occupational safety and health standards under OSHA-approved plans and are provided grants to assist them in carrying out their programs. As of October 1978, 24 States 1/ were operating enforcement programs under OSHA-approved plans.

The inspection programs of OSHA and the States are the primary means of insuring safe and healthful working conditions for the more than 60 million workers protected by the act. When scheduling workplace inspections, OSHA attempts to target workplaces most likely to have high-risk hazards. Such inspections are called programmed inspections. Also, OSHA inspects workplaces to investigate fatalities and certain serious accidents, to follow up to determine if serious violations cited during previous inspections have been corrected, and to respond to worker complaints about alleged hazards. From the passage of the act to September 1978, OSHA and the States have made over 1 million inspections, including about 180,000 in fiscal year 1978.

EMPLOYEES' RIGHT TO COMPLAIN

Section 8(f)(1) of the Occupational Safety and Health Act allows an employee or employee representative to request

1/Connecticut's plan covers only the public sector.

an inspection if he believes that a violation of a health or safety standard exists that threatens physical harm.

The act requires an inspection only when certain conditions are met. The request must be signed and must be reasonably specific about the alleged hazard. If OSHA determines that there are reasonable grounds to believe such a violation exists, an inspection is to be made as soon as possible. If OSHA determines there are no reasonable grounds that such a violation exists, the complainant is to be so notified in writing.

COMPLAINT INSPECTIONS ARE INCREASING

Complaint inspections have increased substantially. In fiscal year 1977, the States made about 14,400 complaint inspections and OSHA made about 19,300 complaint inspections. In the previous year, the States made about 11,200 complaint inspections and OSHA made 9,150. In fiscal year 1978, OSHA and the States made about 37,000 complaint inspections. Of OSHA's total inspections in fiscal year 1978, programed inspections comprised only 35 percent whereas complaint inspections made up about 38 percent. The remainder were inspections to follow up on violations cited previously and to investigate accidents. Recently, complaint inspections have increased to about 75 percent of the workload in some area offices.

The Assistant Secretary for Occupational Safety and Health testified before the Congress in July 1978 that OSHA had a backlog of at least 5,000 complaints from workers and suspected violations referred by other Federal agencies. 1/ She said that OSHA's staff is too small to handle the growing backlog of complaints and referrals.

SCOPE OF REVIEW

We made this review to determine how effective OSHA and States' complaint procedures were in (1) making best use of limited inspection resources and (2) protecting workers from workplace hazards. Our work was done at the following offices.

1/Hearings before the Subcommittee on Compensation, Health, and Safety, House Committee on Education and Labor, July 18, 1978.

- OSHA headquarters office in Washington, D.C.;
- OSHA regional offices in Philadelphia, Pennsylvania; Atlanta, Georgia; Kansas City, Missouri; and San Francisco, California;
- OSHA area offices in Pittsburgh and Philadelphia, Pennsylvania; St. Louis, Missouri; and Tampa and Jacksonville, Florida; and
- State safety and health offices in California, Iowa, and Maryland.

In Pennsylvania, Missouri, and Florida, OSHA is responsible for making inspections. In Maryland, Iowa, and California, the States make inspections under OSHA-approved plans.

Our review included discussions with OSHA and State officials responsible for administering procedures relating to employee complaints. We reviewed selected complaint case files and related records for complaint inspections made during fiscal year 1978.

CHAPTER 2

COMPLAINT INSPECTIONS--A HIGH PRIORITY WITH LIMITED BENEFITS

The Occupational Safety and Health Administration's policy is to direct its limited number of inspectors to workplaces that pose the greatest risk to workers. However, this policy has been thwarted by another OSHA policy--that of making workplace inspections for virtually all complaints about workplace hazards.

OSHA makes more complaint inspections than any other type of inspection. A lesser, but still significant, part of States' inspection resources is also directed toward complaints. The number of complaint inspections has increased significantly in recent years and apparently it will continue to increase. In some areas, OSHA makes few programmed inspections.

Complaint inspections provide limited benefits in protecting workers from serious hazards. Most complaints (1) come from the types of businesses that OSHA would not visit on its own initiative and (2) do not appear to address serious hazards or, in some cases, any hazards. Although serious hazards were cited in 18 percent of OSHA's complaint inspections, rarely were the hazards related to the complaints. For 80 percent of the complaints we reviewed, inspectors had found no violation of any OSHA standards that related to the complaints.

OSHA needs to develop methods for reducing its complaint workload so it can direct more inspections toward high-risk businesses.

COMPLAINT INSPECTION POLICIES

OSHA's complaint inspection policies have evolved to a point where virtually all complaints result in inspections. Of the 2,807 complaints received between October 1977 and March 1978 in the five Federal and three State offices we visited, only 248 did not result in inspections. Our review of some of these 248 complaints showed that they were not investigated for such reasons as (1) the complaint was withdrawn, (2) the office lacked jurisdiction, (3) entry to the worksite was denied, (4) the worksite could not be found, (5) an OSHA inspection was already in process at the worksite, and (6) the complaint was considered harassment.

OSHA's initial complaint procedures, established in November 1971, provided that complaints would not be investigated unless they met the act's requirements (written and signed and from an employee or employee representative).

In January 1976 OSHA revised its procedures for handling complaints. OSHA scheduled programmed inspections for complaints not meeting the requirements of the act, but for which there were reasonable grounds to believe that a hazardous condition existed.

Later in 1976, as a result of the kepone incident ^{1/} OSHA decided that, whenever information came to its attention about safety or health hazards at a workplace, an inspection would be made in accordance with the time frames set for complaints which meet the act's requirements.

CURRENT PROCEDURES FOR HANDLING COMPLAINTS

In December 1977, to relieve the complaint workload, OSHA issued Program Directive 200-69. It provides that all complaints, regardless of source or method of receipt, are to be reviewed and evaluated by the area director for (1) possible hazard implications, (2) determination of classification, and (3) scheduling of investigation. Any hazard classified as posing an imminent danger to workers is to be investigated within 24 hours. For a complaint involving a possible serious hazard, an inspection is to be started within 3 working days unless a delay can be justified. If a backlog of serious complaints exceeding 7 working days persists for 20 working days, the area director is to advise the regional administrator, who may provide additional staff from within the region or may seek additional assistance from the headquarters field coordinator.

Complaints considered to involve nonserious hazards are to be categorized as formal or nonformal. Complaints meeting the requirements of section 8(f)(1) of the act are considered formal and are to be investigated within 20 working days of receipt. The regional administrator must be advised

^{1/}In September 1974 OSHA received a complaint about exposure to a toxic substance called kepone at a pesticide plant. It did not investigate the complaint until August 1975, after a State official described serious employee illnesses at the plant. The kepone incident received national publicity and resulted in congressional hearings.

if the time criteria cannot be met. Inspections for nonformal complaints are also to be made within 20 working days. Complaints that have not been investigated within 30 working days may be handled by contacting the employer by letter. After consulting with the regional office, the area director may send a letter sooner if he or she believes it unlikely that the complaint inspection can be scheduled within 20 working days.

OSHA's current procedures have done little to reduce the complaint workload. Area offices spend much of their inspection time investigating complaints. Before OSHA's 1976 policy change, OSHA's regional offices reported that complaint inspections were 6 to 16 percent of the field workload. Recently, complaint inspections have increased to 21 to 56 percent of the workload, depending on the regions. In some area offices, about 75 percent of the inspections were in response to complaints.

State procedures are similar to OSHA's with certain exceptions. For example, California considers any oral or written complaint from an employee or his representative as a formal complaint. The State is required to investigate nonserious complaints within 14 days.

Maryland has no requirement to investigate nonformal complaints except when the complaints are about conditions considered to pose an imminent danger. However, Maryland schedules the nonformal serious and nonserious complaints for eventual inspection as part of its regular visits to workplaces. Also, Maryland's procedures do not require the complaints to be prioritized, nor do they establish time frames for making inspections. In commenting on a draft of this report (see app. IV) Maryland wrote that it has established time frames for responding to complaints. However, because this comment was not consistent with what we found during our review, we contacted State officials to clarify the matter. A State official told us that the time frames were not actually implemented because the State is able to handle all complaints promptly.

Before January 1978, when Iowa adopted OSHA's complaint procedures, it did not have time limits for making complaint inspections. In commenting on a draft of this report (see app. III) the State said that the complaints were treated as top priority.

COMPLAINT INSPECTIONS GREATLY
AFFECT ENFORCEMENT PROGRAM

In May 1977 the Assistant Secretary for Occupational Safety and Health announced that OSHA would focus its inspection resources in high-risk industries, such as construction, manufacturing, transportation, and petrochemicals. She said that because of limited resources, OSHA " * * * must set priorities and make sure that we use our limited resources to attack the most dangerous problems."

Since only a small percentage of workplaces can be inspected each year, programmed inspections are directed toward what OSHA considers high-risk industries. However, complaints have affected the inspection program by taking away resources from programmed inspections. OSHA data for fiscal year 1978 show that complaints made up about 38 percent of all inspections, while the programmed inspections comprised 35 percent. Data for the States show complaints comprised about 13 percent of their inspections. This percentage, however, may be understated because States may be categorizing certain types of complaint inspections as programmed inspections. For example, in Maryland all nonformal complaints except those considered to involve a possible imminent danger hazard are handled as programmed inspections. We were unable to determine how many nonformal complaints were received in Maryland because telephone complaints were not recorded in the complaint log. (Telephone complaints at all other locations visited accounted for about 70 percent of all complaints recorded.)

Officials at several of the offices we visited told us that employee complaints have a much greater impact on the inspection activity than the statistics show. They said many programmed inspections are made because of complaints received. For example, in the California office we visited, 10 percent of the inspections recorded as programmed inspections were complaint initiated. Such inspections occur because an inspector will investigate other companies at or near the complaint site.

OSHA officials in Philadelphia and St. Louis told us that their workload consisted almost entirely of complaints. According to the Philadelphia area director, the only programmed inspections done by his office were those which demanded immediate attention, such as special investigations of grain elevators. The Pittsburgh area director told us that his staff works almost exclusively on complaints, which precludes a regular program of inspection. During our review the office was not making any programmed health inspections.

OSHA data for the Federal inspection effort show a national backlog 1/ of 1,893 safety, 1,750 health, and 796 combined safety and health complaints as of October 1, 1978. Similar data for the States were not available.

All offices visited had a backlog of health complaints, and several had a backlog of safety complaints. Several officials in offices without a large backlog of safety complaints said that complaints were increasing and that large backlogs might develop.

Commenting on a draft of this report, Maryland officials said the State had no backlog of health complaints. However, this was contrary to what State officials told us at the time of our review and what we found when reviewing health complaint cases.

The Philadelphia area office had a backlog of 152 health and 41 safety complaints as of June 15, 1978. Of these, 84 health complaints and 5 safety complaints involved potentially serious hazards.

During our review the Pittsburgh area office had a backlog of 25 health and 12 safety complaints. OSHA considered 19 of the health and 8 of the safety complaints as potentially serious. Area office officials told us that the office's health inspectors were 3 months behind in processing health complaints.

The California office's safety complaint log showed 39 backlogged safety complaints. The area director considered 18 of them as potentially serious. St. Louis and Iowa offices did not keep records of complaint backlogs; however, officials at both offices told us that occasionally safety complaint backlogs have developed. The Tampa and Jacksonville offices and the State of Maryland did not have any safety complaint backlog.

1/Backlog statistics do not represent the total number of uninvestigated complaints. Backlogged complaints are complaints which have not been, or OSHA estimates will not be, investigated within OSHA's established time periods. The time periods differ based on OSHA's estimate of the hazard the complaint indicates.

COMPLAINT INSPECTIONS DO NOT TAKE INSPECTORS TO HIGH-RISK INDUSTRIES

Many complaints are not taking OSHA and State inspectors to industries with the most serious health and safety hazards. OSHA provided each Federal and State office a list of high-risk industries for programming safety inspections. Such a list has not yet been developed for health hazards. In addition, OSHA has established a national special emphasis program for designated industries. Of 267 complaints dealing with safety hazards, only 65 involved industries included in OSHA's high-risk or special emphasis program. Also, OSHA officials told us that even though some complaints come from high-risk industries, the hazards alleged in the complaints usually are not serious and are not the type OSHA would look for in a programmed inspection at these workplaces.

The complaints which were not from high-risk industries usually involved small businesses less likely to have serious hazards, such as a fast food restaurant (25 employees), a motel (30 employees), a grocery store (50 employees), an environmental consultant (15 employees), a car dealer (4 employees), a rental property manager (2 employees), and a retail store (14 employees).

MANY COMPLAINTS INVOLVE NONSERIOUS HAZARDS

OSHA procedures require that complaints be classified for severity when they are received. However, Maryland, California, and Iowa did not classify complaints. A Maryland official said that the agency did not classify complaints, except for imminent danger, because the severity of a workplace hazard cannot be determined until physically observed. California procedures require the classification of complaints received after March 1978, but our review of case files and logs showed this requirement was not being followed. According to an official, the classification of complaints was possibly overlooked because the form used to record complaints did not have a provision for recording severity. Iowa began to classify complaints during 1978.

For fiscal year 1978, OSHA data showed that about 70 percent of all complaints received were classified as non-serious. Only 1 percent were considered as a potential imminent danger. The complaint logs for the locations covered in our review (October 1977 through March 1978) showed the following:

Severity classification (note a)
Imminent Less than
danger Serious serious

 (percent)

Philadelphia	1	34	65
Pittsburgh			
(note b)	2	55	43
Jacksonville	4	37	59
Tampa	1	13	86
St. Louis	1	10	89

a/Does not reflect those cases which were not classified for severity.

b/Reflects complaints received between November 1977 and March 1978 only since severity classifications were not shown on the October log.

In Pittsburgh, beginning in February 1978 virtually all complaints were classified as serious. According to a Pittsburgh OSHA official, this was done because all complaints are inspected; therefore, it is not necessary to set priorities for the complaints as to severity.

In reviewing 196 case files at the OSHA offices, we found that 113 employee complaints dealt with alleged hazards which OSHA considered to be nonserious. The complaints described such workplace conditions as locked rear exits in an office building, slippery floors in the dishwashing area of a restaurant, unmarked aisles, dirty restrooms, lack of hot water for showers, unsanitary shower facilities, and lack of separate restrooms for men and women.

At our request, Maryland, California, and Iowa classified the severity of hazards complained about for the 170 case files we reviewed. Based on this retroactive classification, 93 complaints were considered to involve hazards classified as less than serious. Complaints included lack of separate restrooms, slippery floors in the kitchen of a restaurant, inadequate lighting in an office, and dirty restrooms.

According to a California official, many complaints are nuisance-type complaints dealing with conditions for which there are no standards, such as tobacco smoke. Another California official said that he frequently had to tell the complainant there was no standard covering the alleged hazard.

An OSHA official in Pittsburgh said that the office often is wasting resources on health complaint inspections. For example, one complaint involved fumes from a ketchup processing machine. OSHA believed, before inspecting the workplace, that there was no violation or at most a de minimis notice would be issued. A de minimis violation has no direct or immediate relationship to safety or health. OSHA's inspection found no hazard. A Maryland official told us that less than one half of all health complaints justify an inspection.

COMPLAINTS USUALLY DO NOT INVOLVE VIOLATIONS OF STANDARDS

Complaint inspections often detect no violations of standards, seldom detect serious violations, and rarely detect serious violations that relate to the subject of the complaints.

OSHA's statistics for October 1977 through August 1978 showed no citations issued in 54 percent of the health complaint investigations, 32 percent of the safety complaint investigations, and 30 percent of the investigations that involved both safety and health.

Neither national nor State data were available on the number of complaints that involved serious violations. We reviewed 359 case files and found that 80 percent of the matters complained about were not considered by OSHA or State officials to be violations of OSHA's standards. Less than 4 percent of the complaint items were cited as serious violations. As shown in the table below, of the 1,122 complaint items we reviewed, only 40 were cited as serious violations.

	<u>Complaint items</u>	<u>Cited as serious</u>	<u>Cited as nonserious</u>	<u>In compliance</u>
Pittsburgh	139	9	17	113
Philadelphia	218	9	25	184
St. Louis	199	8	22	169
Tampa (note a)	69	2	19	48
Jacksonville	51	-	11	40
Maryland	133	1	25	107
Iowa	158	7	30	121
California	155	4	36	115
Total	<u>1,122</u>	<u>40</u>	<u>185</u>	<u>897</u>

a/In Tampa 12 items were cited as repeat violations.

We found that 142 serious violations were cited covering hazards not related to the complaint.

CONCLUSIONS

Most complaints received are inspected, although many do not appear to involve serious hazards. Usually complaints do not (1) involve high-risk workplaces or (2) result in the detection of serious hazards. Complaint inspections are resulting in OSHA and State inspections at many workplaces less likely to have serious occupational safety and health problems than others that would otherwise be inspected.

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Specific improvements needed are discussed in the following chapters.

CHAPTER 3

COMPLAINT WORKLOAD CAN BE REDUCED

While some Occupational Safety and Health Administration and State offices were screening complaints to determine which ones warranted workplace inspections and what skills were needed for the inspections, most were not.

According to several OSHA and State officials, there was little reason to screen complaints since nearly all resulted in inspections. While this attitude is understandable in view of the law's requirement and OSHA's complaint policies, it appears that OSHA and State inspectors will continue to make unwarranted complaint inspections when they could be directing their efforts toward higher risk workplaces.

The number of complaint inspections could be reduced and better use made of health compliance officers (industrial hygienists) if OSHA (1) changed its policy of routinely visiting the workplace to investigate virtually all complaints and (2) established more effective complaint screening procedures.

SOME COMPLAINTS CAN BE RESOLVED WITHOUT ONSITE INSPECTIONS

Despite numerous complaints and limited resources, OSHA and the States are hesitant to not visit workplaces for every complaint received. Although OSHA revised its complaint procedures in December 1977 to provide inspectors some relief from inspecting every complaint, the revised procedures have not provided the flexibility needed for handling complaints by means other than an inspection. Some OSHA offices and States have begun considering other ways of resolving complaints.

OSHA requires that all complaints, regardless of source or method of receipt, be reviewed and evaluated by the area director, or a designated professional, but only for (1) determining safety and health implications, (2) classifying as imminent danger, serious, or nonserious, and (3) scheduling an investigation.

An area director can write a letter to an employer to try to resolve a complaint only when the complaint is non-formal, not considered to involve a serious hazard, and either (1) an inspection has not been made within 30 working days or (2) it appears when the complaint is received that an inspection will not be made within 20 working days. OSHA officials said that under the present procedures few

complaints are resolved without an inspection. We found only a few occasions where a means other than an inspection was used to inform an employer of an alleged hazard.

After our work in Pittsburgh was completed, we were shown an example of handling a complaint by a letter to the employer. The complainant alleged (1) not enough toilet facilities, (2) inadequate workbreaks, and (3) slippery kitchen floors in a restaurant. The complaint was received by telephone on August 22, 1978. OSHA wrote the employer informing him that he could abate items one and three without an inspection (OSHA has no authority regarding item two). OSHA requested the employer to advise OSHA of the action taken within 15 days. The employer later replied that he had corrected the workplace conditions.

A Maryland official said that because health complaints greatly affect health resources and because less than half of the health complaints justify an inspection, the State in 1978 began treating health complaints not considered significant, with the complainant's permission, by telephoning the employer and requesting him to inspect for and abate the hazard if present. The employer is to inform the State of any action taken. The State is to contact the complainant and ask him to withdraw his complaint if he feels the corrective action is satisfactory. During our review, Maryland had used the procedure twice.

Maryland used the procedure for a telephone complaint about smoke and fumes from heaters. A State official told a company representative about the complaint. According to the representative, the company had checked the heaters and the carbon monoxide level was within the acceptable exposure limit, and the sulfur dioxide measurements were negative. The company representative also explained the cause of the smoke and stated that the union and the company have agreed that all the heaters will be replaced by 1980. The State official concluded that there was no hazard. The complainant was informed about the results of the inquiry, and he withdrew his complaint.

In June 1978, because of its large health complaint backlog, the Philadelphia area office initiated a new procedure for responding to some nonformal health complaints without making a worksite inspection. The office decided that any nonformal health complaint rated low on its regionally approved inspection priority schedule could be handled by a letter to the employer.

Priorities are set by assigning rating points to different types of health hazards. For example, carcinogens are given the highest priority rating of 26. Acute nervous system effects are given a rating of 20, whereas a hazard affecting hearing could be rated as 5 or 10 points depending on the severity of the exposure. General types of low-risk health effects, such as odors or housekeeping, are given a rating of 1 point. The initial rating can be modified for such factors as (1) whether an employee was treated for illness by a physician or whether biological monitoring indicates excessive exposure (additional 10 points) or (2) whether past inspection history at the site indicates a violation is unlikely (minus 5 points each). The maximum possible score is 56.

According to the senior industrial hygienist in the Philadelphia area office, staff have been instructed to begin analyzing those lower priority health complaints (rated less than 10) to identify which could be handled by a letter to the employer. The senior industrial hygienist said he would like to see all of the nonformal complaints other than serious health complaints handled by this approach. However, the office has not developed written guidelines for using the priority system as a screening device. Officials said that letters were used to handle some nonserious health complaints. The following are some examples:

--OSHA received a complaint involving exposure to carbon monoxide at the loading dock of a department store. OSHA wrote to the company about the potential hazard. The company's insurance carrier surveyed the workplace, and a copy of the survey report was sent to OSHA showing no excessive levels of carbon monoxide.

--OSHA received a complaint concerning the lack of ventilation at a cleaning operation in a company's electronics department. It informed the company of the potential hazard by letter. The company stated that it corrected the problem by installing a ventilation system, photographs of which were sent to OSHA.

OSHA and State officials told us that the act requires OSHA to inspect all formal complaints regardless of seriousness of the alleged hazard. About 70 percent of the complaints received in the OSHA, California, and Iowa offices we visited did not meet the formality requirements of the act. For example, most complaints were received by telephone. Also, about 37 percent of the complaints came from former employees or others, such as family members, business

competitors, and concerned persons. In Maryland, 70 percent of the complaint inspection cases we reviewed met the formality requirements of the act, apparently because the State classifies telephone complaints as programmed inspections.

Many of the nonformal complaints were considered by OSHA and the States as nonserious, and it appeared they could have been handled by means other than a workplace inspection. For example:

- In the Pittsburgh area office a department store employee complained about (1) the lack of trained first aid personnel and (2) an unsecured sign above a counter. Although OSHA considered the matters nonserious, an inspection was made. No violations were found.
- In the Philadelphia area office a nonemployee telephone complainant said that an equipment rental business (1) had an unsanitary restroom, (2) was infested with rodents, and (3) was configured so that female employees had to walk through unlighted areas of the warehouse to get to the office. OSHA considered the complaint as nonserious but inspected the workplace. No violations were found.
- In California's region I office an employee telephoned about inadequate lighting in an office. The State classified the complaint as nonserious. The State made a safety inspection. No violation was found.
- In the St. Louis area office a telephone complaint was made by a nonemployee concerning unsanitary restrooms and poor housekeeping at a management consulting and public relations firm. OSHA classified the complaint as nonserious, but made an inspection and found no violations.
- In Iowa, a former employee complained that floors in the dishwasher area of a restaurant were wet and that the shoes required to be worn caused employees to slip. The complaint was classified nonserious, and an inspection was made. No violations were found.

Our review of 186 formal complaints showed that 54 percent were considered nonserious by OSHA and the States. The following are some examples, which we believe could have been handled by means other than an inspection if the act were amended to allow resolution of formal complaints by other than an inspection.

--In the Jacksonville area office, a formal complaint was received alleging that two rear doors of an office building were locked. OSHA classified the complaint as nonserious and made a workplace inspection. No violation was found.

--In the Tampa area office, a formal complaint was received concerning (1) no exit lights, (2) no emergency lights in the restroom, (3) no elevator emergency key, and (4) no identification on the fire exit in a novelty retail store. The complaint was classified by OSHA as nonserious. An inspection was made and no violations were found.

--In Maryland a formal complaint about a slippery floor was received from an employee in a county government agency. The State classified the complaint as nonserious. No violation was found.

Also, we found instances when Federal and State inspectors conducted complaint inspections covering items for which no standards existed. For example:

--The Tampa area office received a formal complaint about insufficient lighting in an office. OSHA classified the complaint as nonserious and inspected the workplace. No violation was found. (OSHA does not have a lighting standard.)

--Maryland received three formal complaints stating that women were being refused permission to go to the restroom or drinking fountain without using their allotted rest breaks. The State classified the complaint as nonserious and made an inspection. No violation was found. (A Maryland official told us the State had no standard covering the complaint item.)

--In Pittsburgh a complaint was received from an employee about the lack of hot water in the shower room. OSHA classified the complaint as nonserious and made an inspection. No violation was cited. (OSHA has no standard covering hot water in shower facilities.)

OSHA and State officials agreed that many of the complaints could be handled without inspecting workplaces. OSHA's San Francisco Regional Administrator proposed a method to resolve many of the nonserious complaints. He suggested that the area director require, in writing, that

the employer make an inspection of his establishment. The written request for a self-inspection would include

- identifying the condition or area where the condition allegedly exists,
- suggesting the type and scope of inspection effort,
- requesting a written report within 30 working days on the inspection results and specific action taken to eliminate the hazard,
- informing the employer to contact the area office if assistance and advice are needed on the recognition and correction of the hazard, and
- advising the employer that an inspection may be made after receipt of the report.

The Regional Administrator also suggested that the complainant should receive a copy of OSHA's written request to the employer and be requested to contact OSHA if the alleged conditions were not corrected within 30 days. If OSHA did not hear from him within 60 days, it would consider the complaint satisfied.

We believe that such an alternative for handling and resolving nonserious complaints would benefit OSHA's and the States' inspection programs.

OPPORTUNITIES TO HELP HYGIENISTS DEAL WITH HEALTH COMPLAINTS

Assuring the most effective use of health compliance resources is a major concern of OSHA's. As previously discussed, health complaints account for many of the health inspections made by OSHA. Our review of case files showed that health complaint inspections frequently did not result in any standards' violations being cited. For example, of 84 health complaints we reviewed, 49 had no violations cited.

In our report to the Congress on April 5, 1978, "Sporadic Workplace Inspections for Lethal and Other Serious Health Hazards," we stated that about 70 percent of the complaint inspections we reviewed were in response to alleged low-risk health hazards. According to OSHA and State officials, it is difficult to determine the severity of a potential health hazard on the basis of the complaint description. However,

these officials said that many health complaints do not result in violations being cited and that much time and resources are wasted on insignificant health complaints.

It is important for OSHA to determine the potential risk of vague or general complaints about fumes, solvents, ventilation, or dust. Workers are often unaware of the identity of substances to which they are exposed. Thus, it is often difficult for workers to be specific as to the hazard for which the inspection is requested.

OSHA should help workers refine their complaints before deciding to schedule a workplace inspection so that industrial hygienists' time will not be spent on trivial complaints. Also, safety inspectors could be used to visit the worksite if necessary to obtain additional data on the alleged health hazard.

For example, in the Philadelphia area office, officials told us that last year they used safety inspectors to reduce the health backlog by about 30 to 35 percent without the need for inspections by industrial hygienists. The safety inspectors visited the worksites to obtain additional data and when necessary took samples of the potential hazard. The data were turned over to the senior industrial hygienist, who determined whether or not to send a hygienist to the worksite. Some of the health complaints handled by safety inspectors included:

- An employee complained about noise exposure caused by various pieces of lawn equipment, and several other safety hazards. A safety inspector made an inspection, and noise readings were taken and reported to the senior industrial hygienist. Based on an evaluation of the noise levels, no industrial hygiene inspection was made.
- A complaint was received describing dust from the processing of old clothing. A safety inspector made an inspection and observed no airborne or settled dust that could indicate employee exposure. Based on this inspection no industrial hygiene inspection was made.

INITIAL COMPLAINT
SCREENING IS INADEQUATE

Our review at the Federal and State offices showed that complaints usually were not being screened to determine

whether they could be handled by means other than a worksite inspection. Generally, complaint screening consisted of classifying complaints as to formality, severity, and type and setting priorities for inspections.

Complaint information is
sometimes vague

Although professionals received the complaints in all the offices visited except California, information obtained was generally vague and limited only to the complainants' brief description of the hazard. Information was not obtained on the number of employees exposed, the exact location of the alleged hazard, and the frequency of exposure. OSHA and the States could have sought additional information about the alleged hazard. In 295 of the 363 complaints we examined, the complainant provided an address or telephone number where he could be contacted. Of the 295 complaints, 194 were made by telephone. OSHA and State officials agreed that better information could be obtained during the initial recording of the complaints. Examples of complaints we reviewed which appeared vague or contained limited data and turned out to involve no standards violations include

- lack of water for washing,
- unsanitary shower facilities,
- poor lighting,
- water on the floor,
- exposure to fumes, and
- slippery floor.

In the California office telephone complaints are received and recorded by a clerk. According to a State health official, many complaints are vague and the information recorded is inadequate; therefore, the industrial hygienist does not know what equipment to bring to the worksite. At times industrial hygienists have had to make second trips to the worksites because they did not have the proper equipment during the initial visit.

OSHA and the States seldom contacted the complainant to clarify the workplace conditions surrounding the complaint although, in 295 of the 363 complaints, the complainant could have been contacted. However, in the cases we reviewed additional information was sought only five times.

The Philadelphia area office and California's occupational cancer control unit, which has responsibility for all health inspections at workplaces handling carcinogens, tried to obtain more information on some vague health complaints.

In January 1978, the Philadelphia area office began sending a questionnaire to complainants who filed vague formal health complaints. The senior industrial hygienist said that about one out of four formal health complaints required the use of this questionnaire. The questionnaire requests information on

- major products manufactured,
- specific location of the alleged hazard,
- operations performed and chemicals used,
- incidence of illnesses due to the hazard and any related medical treatment,
- any medical exams performed,
- use of personal protective equipment, and
- frequency of exposure.

California's cancer unit asked the complainant to provide samples for some complaints concerning asbestos exposure. We were able to obtain information on three examples where this procedure was used. In two instances a test of the samples indicated a potential problem and an inspection was performed. In one case, the complainant was concerned about possible exposure to asbestos in the acoustical ceiling tile. The complainant supplied three samples of the dust from the ceiling tile to the State. The three samples contained asbestos in an amount that would not endanger workers. Therefore, the State decided not to inspect, informed the complainant of the results of the tests, and closed the case.

CONCLUSIONS

Virtually all complaints resulted in inspections, although OSHA considered many complaints as nonserious.

OSHA needs to establish and implement a system for handling and resolving certain complaints without workplace inspections. This will require obtaining better information on the initial complaint describing the alleged hazard and

making decisions on which complaints should be resolved by inspecting the workplace.

Information received in complaints generally has been vague and limited only to the complainants' subjective description of the alleged hazard. OSHA and State officials agreed that better information could be obtained during the initial recording of the complaints, but they have done little to obtain additional information.

RECOMMENDATIONS TO THE SECRETARY OF LABOR

We recommend that the Secretary of Labor direct OSHA and the States to:

- Develop more effective criteria for screening safety and health complaints. This should include establishing guidelines regarding what information should be sought on the initial complaint and for assisting the complainant to better identify the workplace conditions.
- Evaluate each screened informal complaint and try to resolve those considered less than serious by other than a workplace inspection.
- Identify vague health complaints and use cross-trained safety inspectors to obtain additional information needed.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress amend section 8(f) of the 1970 act to give OSHA authority to resolve formal complaints without making inspections at the workplaces unless the complaints involve potential hazards that can cause death or serious physical harm. This can be achieved by changing the next to the last sentence in paragraph (1) of section 8(f) to read as follows:

"If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, and that such violation or danger could cause death or serious physical harm, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists;

if the Secretary determines that there are reasonable grounds to believe that a violation or danger exists that threatens physical harm not of a serious nature, the Secretary shall notify the employer of the complaint, require the employer to report on corrective actions taken, and shall notify the complainant in writing, of the employer's actions."

AGENCY AND STATE COMMENTS AND OUR EVALUATION

The Department of Labor, in a March 7, 1979, letter commenting on a draft of this report (see app. I) agreed that it needed to improve procedures for resolving workers' complaints about workplace hazards. Labor said that many of the instructions and procedures OSHA is now developing are in line with many of our recommendations.

Labor said that OSHA is developing instructions prohibiting inspections for complaints that describe no violation of an OSHA standard or no potentially harmful condition. Other complaints will be prioritized for investigation. Labor also said that (1) an existing program directive presently provides area directors with the option of responding to nonformal other-than-serious complaints with a letter to the employer and (2) OSHA is considering several options, which Labor did not describe, for alleviating the complaint problem while continuing to protect workers.

As discussed on page 13 of this report, the program directive mentioned in Labor's response does not provide the flexibility needed for handling complaints by means other than an inspection. Until OSHA develops a more effective approach to resolving informal complaints considered less than serious without workplace inspections, such complaints will continue to use a disproportionate amount of time and resources.

Labor said that guidelines have been developed and will be implemented to assist both OSHA and complainants in describing alleged hazards. Also, OSHA intends to instruct its field staff that, where possible, the senior or supervisory industrial hygienist be involved in gathering information related to all health complaints. We agree with this approach. However, since workers often are unaware of the substances to which they are exposed, it may sometimes be difficult to determine the substances involved without visiting worksites. In such instances we believe cross-trained safety inspectors can be used to obtain additional information needed.

California officials, in commenting on a draft of this report (see app. II), said that the recommended change to the OSH act attracted considerable interest because of the general consensus that the complaint process needs some type of modification to make it less wasteful of field staff time.

CHAPTER 4

COMPLAINT INSPECTIONS CAN BE IMPROVED

When a complaint involves an apparent serious hazard, a timely inspection should be made. Also, when making complaint inspections, we believe that a compliance officer should check for serious hazards likely to be found in the workplace.

Complaints involving potentially serious hazards sometimes were not investigated promptly. Also, although inspection files often did not adequately show the scope of the inspection, inspectors frequently inspected only for the alleged hazard and did not inspect other work areas where potentially serious hazards were likely to exist.

COMPLAINTS CLASSIFIED SERIOUS NOT INVESTIGATED PROMPTLY

OSHA procedures call for serious complaints to be investigated within 3 working days. We reviewed 119 complaints classified as serious and found that 74 inspections were not made within the established time frame.

For example, in the Pittsburgh office, two complaints were received alleging poor ventilation, no heat, exposure to fiberglass dust, and unguarded saws in a plant which manufactured fiberglass fishing poles. The first complaint was received on August 31, 1977, the second on December 15, 1977. One inspection was made for both complaints on February 7, 1978, 108 working days after receipt of the first complaint and 33 working days after the second. The company was cited for four serious, nine repeat, and five nonserious violations.

In Philadelphia a complaint in a tire and rubber manufacturing company alleged that workers had to operate unguarded machinery. OSHA received the complaint on January 13, 1978, and classified it as serious. An inspection was not made until March 13, 1978--2 months later. When the inspection was made, OSHA cited the employer for not guarding a hydraulic power press.

Also, our review showed that, when a person phoned in a complaint and either requested or agreed to fill out an OSHA complaint form, the Pittsburgh office waited up to 15 days for the form to be submitted before taking any action. The office's safety supervisor stated that the office waited 15 days because (1) by sending in a form the complainant

obtains the additional rights afforded a formal complaint ^{1/} and (2) a telephone call is not considered a complaint until a form comes in. According to the office's area director, the original phone call is not treated as a complaint initially, but rather as an "information request." The area director indicated that the policy was intended to give the individual an opportunity to file a formal complaint.

Our review showed that generally either the complainant did not return the completed form to OSHA or the completed form contained no more useful information than shown on the original telephoned complaint. In either case, the office's 15-day policy resulted in untimely inspections and unnecessary delays in processing complaints.

In the St. Louis, Tampa, and Jacksonville offices, generally, there were no time delays in responding to alleged serious complaints. In Maryland, we were unable to determine the timeliness in handling serious complaints because the State did not have a system for classifying incoming complaints as to their severity.

POTENTIALLY SERIOUS WORKPLACE HAZARDS WERE
NOT LOOKED FOR DURING COMPLAINT INVESTIGATIONS

Most complaint inspections dealt only with the hazard alleged by the complainant and did not include other potentially serious hazards.

OSHA procedures provide that for all serious and formal nonserious complaints, the inspector normally should cover the entire workplace, whereas for nonformal nonserious complaints, the inspection should be limited to matters complained about. In our case file review, we could not establish any correlation between a complaint's formality and whether a partial or complete inspection was made.

Whether or not a complaint is formal should not be relevant to the scope of an inspection. We believe that inspectors should check routinely those operations, processes, and conditions which experience has shown could present serious workplace hazards common to the type of business being inspected.

^{1/}If the complainant declines to fill out the form, OSHA will make the inspection without the 15-day delay. If the complainant says the form will be filled out, but OSHA doesn't receive it, OSHA will still make the inspection.

OSHA and the States did not require inspectors to check other potentially serious hazards at a worksite when making a complaint inspection. We reviewed 65 complaints involving workplaces that OSHA considered to be in high-risk or special emphasis industries. For 47 of these complaints the inspections covered only the complaint items.

The following examples illustrate the need for OSHA and the States to provide better guidelines for identifying all potentially serious hazards at the worksites inspected.

--In October 1977 a complaint was received by the Pittsburgh area office concerning hazards in a fabricated plate work company, which had 13 employees. The industry was on OSHA's high-risk listing. A partial inspection was made in October and 2 serious and 10 nonserious violations were cited. The serious violations involved lack of guarding on a machine and inadequate guarding on live electrical parts. Three of the nonserious violations related to the complaint. The inspector noted in his report that "the overall safety posture of the company was pitiful."

One month later, OSHA received another complaint describing additional workplace hazards at the same worksite. OSHA made its second partial complaint inspection. This inspection resulted in additional violations being cited--two serious and eight nonserious. The serious violations covered no rescue procedure or attendant stationed outside a tank when welding was being done inside and no approved air line respirators or hose mask for the welder. One serious and four nonserious violations were related to the complaint.

--In January 1978 a complaint was received in the St. Louis area office about a hazard in a wood fixtures manufacturing company. The company, which was classified as being in a high-hazard industry, was previously inspected in January 1977, when an inspection covering only complaint items was made. OSHA made a partial inspection in January 1978 and cited the company for improper storage of paint. This violation was not related to the complaint. In February another partial inspection was made based on another complaint. The company was cited for unguarded saws, again not related to the complaint. The employer told OSHA that he could not understand

why these hazards were not cited during prior inspections which covered workplace conditions in the same work area. An OSHA official said the violations could have been overlooked during prior inspections.

Although the OSHA form used to summarize data on an inspection once required the inspector to note whether an inspection was partial or complete, the current version does not. Only the Pittsburgh office form noted whether a complete or partial inspection was made. Many of the case files we reviewed did not indicate whether a partial or complete inspection had been made.

From the case files it could not always be determined what workplace conditions were checked during an inspection. In some cases, inspectors cited more items than were listed in the complaint. However, the files did not contain enough information to show whether inspectors checked for the existence of the serious hazards likely to be present in the types of businesses inspected. Also, case files often did not specify whether all complaint items were covered in the inspection, and often there was not information to show whether citations related to the complaint items.

Because inspectors were not required to record what they looked for, little supervisory control existed over the quality and completeness of the inspections. Also, the lack of documentation in the case files did not provide an adequate inspection history for reference when future complaints or inspections cover the same workplace.

CONCLUSIONS

OSHA and the States need to improve their control over complaint inspections to insure that (1) complaints believed to involve serious hazards are promptly investigated and (2) inspectors look for the serious hazards considered likely to be present in the types of businesses being inspected. The recency, scope, and results of prior inspections should be considered in determining how far beyond the complaint the inspector should go.

Better management control over the quality of inspections could be exercised if OSHA and the States' inspectors better documented inspection results.

RECOMMENDATIONS TO THE
SECRETARY OF LABOR

We recommend that the Secretary of Labor direct OSHA to conduct and require States to make more effective inspections which should include:

- Developing inspection procedures which require that other potentially serious worksite hazards are covered during complaint inspections.
- Insuring that timely complaint inspections are made when the alleged hazard is believed potentially serious.
- Insuring that inspectors adequately document the scope and the results of the complaint inspection.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Labor said that OSHA presently requires, time and resources permitting, full inspections for all complaints classified as serious and is considering a requirement that complaint inspections in high-hazard industries include all high-hazard conditions.

Labor agrees that the documentation of the scope and results of inspections can be improved and is (1) revising its manual for health inspections and may revise its safety manual and (2) considering requiring that inspectors designate whether an inspection was partial or complete. Labor said it has not been able to respond within 3 days to complaints alleging serious hazards. After it implements a more manageable approach to its complaint workload, it will reexamine its time limits.

While OSHA's procedures normally require complete inspections for all serious and formal nonserious complaints (see p. 26) we found no correlation between a complaint's formality or classification and whether a partial or complete inspection was made. We believe that inspectors should check those operations, processes, and conditions which experience has shown present serious workplace hazards in the type of business being inspected. Such coverage should not be limited to high-hazard industries.

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

MAR 7 1979

Mr. Gregory J. Ahart
Director
Human Resources Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Ahart:

Enclosed, as requested, is the Department of Labor's response to the draft GAO report, "Need to Improve Procedures for Resolving Workers' Complaints about Workplace Hazards".

Sincerely,



R.C. DeMarco
Inspector General-Acting

Enclosure

The Occupational Safety and Health Administration's
Response to the draft GAO Report,
"Need to Improve Procedures for Resolving Workers'
Complaints about Workplace Hazards"

The Occupational Safety and Health Administration (OSHA) is aware of the complaint workload problems described in the subject GAO draft report and has taken several actions over the past year designed to alleviate the situation. In early 1978 the agency began implementing OSHA Program Directive CPL 2.12 (formerly OSHA Program Directive #200-69). CPL 2.12 provided guidelines and procedures for the scheduling, review and investigation of complaints concerning alleged unsafe and unhealthful conditions at the workplace. These guidelines and procedures were to enable the agency to more effectively manage the steadily increasing number of workplace complaints.

In October 1978, the agency initiated a review of field operations to determine the scope and cause of the complaint backlog and to develop recommendations for dealing with these problems. The review consisted of interviews with officials in OSHA regional and area offices regarding complaint processing, handling and results. Information revealed during the interviews confirms many of the findings discussed in the subject GAO report. And, many of the instructions and procedures the agency is now developing to improve our ability to manage the complaint workload are in line with many of GAO's recommendations. States with approved safety and health plans will be required to adopt and implement OSHA policies in this area.

OSHA's comments on each of GAO's recommendations follow:

1. Recommendation: GAO recommends that the Secretary of Labor direct the Occupational Safety and Health Administration and the States to develop criteria for screening safety and health complaints.

Comment: The agency is developing more explicit instructions in this area. These instructions make it mandatory that all complaints received describing no violation of an OSHA standard or no potentially harmful condition shall not warrant an inspection and the complainant shall be so informed. All other complaints must be prioritized as soon as possible and assigned a numerical value. The criteria for assigning numerical value ranks each complaint on the basis of the seriousness of the condition or conditions described and whether the hazard is in a high or low hazard industry. The higher the value the more imminent the situation. Complaints then will be investigated according to their numerical value.

2. Recommendation: GAO recommends that the Secretary of Labor direct the Occupational Safety and Health Administration and the States to evaluate each complaint and try to resolve nonformal complaints considered less than serious by means other than workplace inspection.

Comment: OSHA Program Directive CPL 2.12 presently provides Area Directors with the option of responding to nonformal other-than-serious complaints with a letter to the employer. Area offices have not, however, fully utilized this option in the past. This has been due in part to a lack of more specific guidelines necessary to accurately evaluate and prioritize workplace complaints.

Although the Occupational Safety and Health Act requires that only complaints meeting the requirements of section 8(f) be investigated, the agency is also very concerned about complaints of hazardous conditions involving employees not meeting these requirements. We have, therefore, since July 1976 required that all complaints, with some exceptions for nonformal other-than-serious, be investigated. Implementation of this policy has resulted in some unanticipated workload problems.

The agency is presently considering several options to more effectively deal with the complaint problem. These options are intended to provide choices for alleviating the complaint problems while at the same time continuing to ensure the best possible safety and health protection for all employees.

Also, the agency is completing a list of questions designed to assist both OSHA and complainants to more accurately describe alleged hazards. For example, in the health area the questions ensure that information is obtained on any unusual symptoms exhibited by the complainant or co-workers, results of any medical examinations, and existing engineering controls. In the safety area, such things as the number of people exposed to the alleged hazard and length of exposure, prior injuries related to the hazard and a description of the worksite must be recorded. This required information will hopefully serve a two-fold purpose. It will improve the quality of information presently being obtained on alleged hazardous conditions and it will provide OSHA area directors with better information with which to properly evaluate and prioritize complaints. It is anticipated that these questions along with other planned refinements in the present system will improve our ability to handle complaints and result in reducing the time and resources now devoted to this area.

3. Recommendation: GAO recommends that the Secretary of Labor direct the Occupational Safety and Health Administration and the States to identify health complaints which are vague and use cross-trained safety inspectors to obtain additional information needed.

The agency firmly believes that the quality of information regarding an alleged hazardous condition is key to proper prioritization of complaints and better management. Guidelines, soon to be implemented, to assist both OSHA and complainants in properly describing alleged hazards have already been developed. Also essential to eliminating vague complaints is ensuring that the individuals who are involved in gathering information are experienced and adequately trained. We intend to provide specific instructions to the OSHA field staff requiring that, where possible, the senior or supervisory industrial hygienist be involved in gathering information related to all health complaints. A similar procedure utilizing senior safety personnel will be followed for safety complaints.

4. Recommendation: GAO recommends that the Secretary of Labor direct the Occupational Safety and Health Administration and the States to develop inspection procedures which require that potentially serious worksite hazards are looked for when an inspector visits a worksite on a complaint inspection.

Comment: The agency presently requires, time and resources permitting, full inspections for all complaints classified as serious. We are, however, considering modifications to these procedures which will ensure that all complaint inspections in high hazard industries are expanded to include all high hazard conditions.

5. Recommendation: GAO recommends that the Secretary of Labor direct the Occupational Safety and Health Administration and the States to assure that timely complaint inspections are made when it is believed that the alleged hazard is potentially serious.

Comment: Under present workload conditions the agency has not been able, in most cases, to meet its requirement that alleged hazards classified as serious be inspected within three (3) days. The prioritization system described in our comments on page one (1) of this response will provide some assistance in this area by requiring that complaints be inspected according to the seriousness of the condition(s) described. However, since the agency's goal is to more effectively manage the complaint workload, it is difficult to determine at this time whether the present time limit would be realistic under different conditions. We do plan to reevaluate and revise, as appropriate, the present requirements after we have established a more manageable approach to the complaint workload.

6. Recommendation: GAO recommends that the Secretary of Labor direct the Occupational Safety and Health Administration and the States to assure that inspectors adequately document the scope and the results of the complaint inspection.

Comment: Item #20 of OSHA Form 1A presently requires that the scope and results of all inspections be adequately documented. We agree, however, that there is room for improvement. The agency is revising its Industrial Hygiene Field Operations Manual to include examples of the kind of information needed. The need for additional examples in the Field Operations Manual for safety is being considered. More discussions on this requirement will also be incorporated in the appropriate training courses at the Institute in Chicago.

Discussions are also under way regarding a possible change to the OSHA 1 form that would require that a designation be made as to whether a partial or complete inspection was made in response to a complaint. We believe that the addition of this information would expand and improve the quality of information we can now retrieve from our data system on complaint inspections.



STATE OF CALIFORNIA—AGRICULTURE AND SERVICES AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
455 GOLDEN GATE AVENUE - CAL/OSHA Program Office
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February 23, 1979

Mr. Gregory J. Ahart, Director
United States General Accounting Office
Human Resources Division
Washington, D. C. 20548

Dear Mr. Ahart:

Thank you for providing us the opportunity to review the GAO report, Need to Improve Procedures for Resolving Workers' Complaints About Workplace Hazards.

As Ms. Fowler mentioned in the telephone discussion with Mr. Zola earlier this week, the report has been read with great interest by CAL/OSHA management personnel most directly involved in enforcement activities. We have no specific comments except to note that the recommended change to the OSHA Act on page 31 attracted considerable interest because of the general consensus that the complaint process needs some type of modification to make it less wasteful of field staff time.

Sincerely,

A handwritten signature in cursive script that reads "Donald Vial".

DONALD VIAL
Director

GAO note: The page reference in this letter may not correspond to the page number in the final report.

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BUREAU OF LABOR

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HON. ROBERT D. RAY
GOVERNOR

ALLEN J. MEIER
COMMISSIONER
WALTER H. JOHNSON
DEPUTY



February 20, 1979

Gregory J. Ahart, Director
Human Resources Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Ahart:

This letter contains comments from the Iowa Bureau of Labor relative to the GAO report on OSHA's response to complaints about workplace hazards. The following comments are made:

1. Page 8. It is true that Iowa did not have specific time frames for conducting complaint investigation. However, the complaints were treated as top priority and given to the inspector responsible for the area where the complaint originated and told to respond to the complaint before any other activity was performed (except fatality investigation).
2. Page 11. It is true that a complaint backlog log was not maintained by Iowa. However, backlogs were readily apparent from the complaint log.
3. Page 21. The state of Iowa accepted complaints from family members as formal complaints. These individuals were considered as authorized representatives of the employee.

Thank you for sharing the draft report with us. We found it to be very enlightening as to complaint activity in other areas.

Sincerely,

Allen J. Meier
Commissioner of Labor

AJM:ckc

GAO note: The page references in this letter may not correspond to the page numbers in the final report.





STATE OF MARYLAND

HARVEY A. EPSTEIN
COMMISSIONER

DEPARTMENT OF LICENSING AND REGULATION
DIVISION OF LABOR AND INDUSTRY
203 EAST BALTIMORE STREET BALTIMORE MARYLAND 21202
301/383-2250

OFFICE OF THE
COMMISSIONER

February 21, 1979

Mr. Gregory J. Ahart, Director
United States General Accounting Office
Human Resources Division
Washington, D. C. 20548

RE: B-163375

Dear Mr. Ahart:

This letter is in response to your letter of January 22, 1979 providing us with the opportunity to review the GAO draft report entitled, "Need To Improve Procedures For Resolving Workers' Complaints About Workplace Hazards."

Comments herewith are limited only to the accuracy of the report as it pertains to Maryland.

Page 8, Paragraph 2 - "Maryland's procedures do not require prioritization of the complaints and do not establish time-frames for conducting inspections."

Page 34, Paragraph 2 - "In Maryland, we were unable to determine the timeliness in handling serious complaints because the State did not have a system for classifying incoming complaints as to their severity."

Comment: Maryland's procedures establish the following time-frames for complaint inspections - Imminent danger: 24 hours, Serious: 3 days, Other than Serious: 7 days. In Maryland, response to a complaint initiates an inspection not later than two weeks. In effect, by determining the immediacy of the response, we are prioritizing without utilizing a formal distinction being made of serious or non-serious cases.

Page 10 - "There was a backlog of health complaints at all the offices we visited and several offices had a backlog of safety complaints."

Comment: Maryland has no backlog of health or safety complaints. All are handled within the above time-frames.

Mr. Gregory J. Ahart
February 21, 1979
Page Two

Thank you for permitting us to comment on this report.

Sincerely,



Harvey A. Epstein
Commissioner of Labor and Industry

HAE:pjc

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