



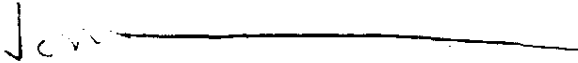
3511
Reader

Interoffice Communication

To Safety Directors
From Tom Grumbles
Date December 15, 1980
Subject OSHA INSPECTION GUIDELINES

Enclosed for your review is the latest draft of the OSHA inspection guidelines from the legal department. I would appreciate your review of these guidelines and procedures. Please send your comments to Sid Pitts by December 31, so they can be forwarded to the corporate safety group by the January 5 deadline.

If you have any questions as to the intent or purpose of these guidelines, please call.


Thomas G. Grumbles

ajo

Enclosure

CCR 000002477

LETTER BALLOT
CORPORATE SAFETY COUNCIL

PLEASE RETURN TO:

A. F. Gallagher
Safety Division
Suite 1310
Houston, TX

NOT LATER THAN:

January 5, 1981

PROPOSAL: OSHA INSPECTION GUIDELINES

AFFIRMATIVE _____

NEGATIVE _____

NOT VOTING _____

COMMENTS: _____

Signature _____

Department _____

Date _____

CCR 000002473

CORPORATE
OSHA INSPECTION GUIDELINES

I.	WHEN THE OSHA INSPECTOR ARRIVES	1
II.	PRESENTATION OF A WARRANT	6
III.	OPENING CONFERENCE	7
IV.	CONDUCT OF THE INSPECTION	8
V.	TRADE SECRETS	10
VI.	CLOSING CONFERENCE	11
VII.	FOLLOWING THE INSPECTION	11
APPENDIX A	CORPORATE OSHA INSPECTION FORM	
APPENDIX B	FORM LETTERS TO AREA DIRECTOR OF OSHA	
APPENDIX C	SAMPLE OSHA INSPECTOR CREDENTIALS	
APPENDIX D	SAMPLE OSHA INSPECTION FORMS	

CORPORATE
OSHA INSPECTION GUIDELINES

These procedures should be used in connection with all OSHA inspections at Conoco facilities. There should be established at each facility an OSHA Inspections Coordinator (OIC) and an alternate, both of whom are fully aware of company policy regarding OSHA inspections as well as plant safety. The OIC and alternate should be technically competent and knowledgeable about the product and/or processes at that particular facility and trained in the monitoring of substances to which employees may be exposed, the OIC and alternate should be instructed as to the procedures to be followed when an OSHA inspector, known as a Compliance, Safety and Health Officer (CSHO), arrives. They should have a general working knowledge of OSHA rules and regulations and should be thoroughly familiar with the Corporate Inspection Guidelines. The Guidelines should be kept in a readily available location at all times and reviewed prior to and during an inspection.

The following procedures are to be exercised whenever an OSHA inspection is initiated:

I. WHEN THE OSHA INSPECTOR ARRIVES

A. In the event any employee receives advance notice of an OSHA inspection, or at a time other than during regular working hours, such notice should be brought to the attention of the Safety Division and of the Legal Department immediately. (Advance notice of inspections is forbidden under OSHA regulations except under specifically stated circumstances.)

When a CSHO presents himself at the official entrance to a facility, he (and any persons accompanying him) should be requested to sign a visitor's register, plant pass or any other book or form routinely used to control the entry and movement of persons upon its premises, and the plant manager should be notified immediately. The company OSHA Inspection Coordinator (OIC) or his alternates should then be immediately notified of the CSHO's presence at the facility. The CSHO and any persons accompanying him should be treated cordially and in a businesslike manner at all times.

B. The CSHO should be escorted by an "appropriate route" to the office of the already notified OIC or alternate. An "appropriate route" means one revealing as little of the facility as possible, i.e., the CSHO should be taken outside work areas and through the entrance closest to the IOC's office or the area to be inspected. The CSHO should be exposed to as little as possible of the company facilities because he may inspect and cite the company for violations within plain view without the necessity of getting a search warrant.

C. Immediately upon hearing of the arrival of the CSHO, the OIC should take out the Corporate OSHA Inspection Guidelines and the Corporate OSHA Inspection Forms. The Guidelines and the Forms should NOT be shown to the CSHO under any circumstances. (They need not be hidden. They simply should not be made available for inspection or review.)

D. Two OICs or alternates should be present with the CSHO at all times during any meeting and throughout any inspection if there is more than one CSHO. It is important that the CSHO be treated courteously.

E. The OIC should examine the written identification and credentials of the CSHO and a written record should be made of his name, title and, if possible, the name of his superior. The OIC has the responsibility for requesting CSHO credentials (see Appendix C - Sample OSHA Inspector Credentials). The OIC will determine with Legal Department assistance, on a case-by-case basis, whether voluntary permission shall be allowed the CSHO or whether entry will be refused and demand made for an inspection warrant. If the CSHO presents an inspection warrant, the OIC shall consult with the Department Safety Director and the Legal Department to determine the sufficiency of the warrant before honoring it.

F. The OIC should determine the reason why the facility has been chosen for an inspection. The CSHO should be asked to identify the nature and purpose of the inspection. He is required to explain the nature and purpose of the inspection under OSHA regulation 29 C.F.R. § 1903.7(a). If he refuses to disclose why he wishes to inspect the facility, a search warrant should be requested by following the procedure set out in Part I of the Corporate OSHA Inspection Guidelines, paragraphs L, M, and N, below and the Legal Department should be notified. Although CSHOs may inspect any factory, plant, establishment, or area where employees perform work, inspections are generally for one of the following reasons:

1. An inspection resulting from an employee complaint.

The nature of the complaint should be specifically identified. Section 8(f)(1) of the Act requires that a copy of the complaint be given to the employer, but the complainant is entitled to have his name withheld. If the CSHO refuses to give you a copy of the complaint, or if the complaint relates to a part of the facilities where more than one employer is present, request a search warrant by following the procedure set out in Part I of the Corporate OSHA Inspection Guidelines, paragraphs L, M, and N, below.

2. An inspection following a workplace fatality or accident causing the hospitalization of five or more employees.

The employer is required to report these incidents to OSHA within 48 hours after their occurrence and an inspection will be virtually certain to follow. The nature and location of the incident giving rise to the inspection should be specifically identified.

3. A follow-up inspection of an item previously cited.

Such an inspection can be expected if the citation was for a serious, willful, or repeated violation or if an abatement plan has been agreed to by the company as the result of an earlier inspection. The previous citation and the item should be specifically identified by the CSHO.

4. A regional programmed or industry group classification inspection based upon injury and illness rates.

G. A multi-employer worksite poses special problems. An employer may be held liable for an OSHA violation on its premises even if it does not control or has not created the hazard. Hence, the OIC should treat an inspection of a multi-employer worksite in the same manner as an inspection directed solely at its company, and proceed in accordance with the Corporate Inspection OSHA Guidelines.

H. The Legal Department should be notified immediately of any citations received if there is any pending OSHA litigation in which the company is presently involved or if the OSHA inspector seeks to conduct an inspection outside of regular working hours. Telephone one of the following persons in the order listed below:

[Names and telephones numbers of persons to be contacted].

I. If the purpose of the inspection is either (a) an inspection resulting from a specific employee complaint, (b) an inspection resulting from a report of a workplace fatality or accident causing the hospitalization of five or more employees, (c) a regional programmed inspection of the facility, or (d) an inspection of an item previously cited which is not being contested in a pending case, the CSHO should be permitted to commence his investigation. Although you have a right to insist on a search warrant for these types of inspections, generally as a matter of policy you should cooperate and not request a warrant. The inspection should be limited, however, to the particular machine, equipment, or condition which is the subject of the complaint, accident, or prior citation, as the case may be.

J. If it is determined according to paragraph I above that the inspection may proceed without a search warrant, the following written statement of limited consent should be mailed to the Area Director of OSHA during the first day of the inspection and a copy hand-delivered to the CSHO, prior to commencement of the inspection. (See letter #1 of Appendix B):

A Compliance Safety and Health Officer under your supervision has requested to inspect (specific area(s) referred to in the employee complaint, accident report or area(s) previously cited) of (Plant) ("Conoco") on (date). Conoco has complied with the request. The inspection, however, is with the consent of Conoco only as to the area(s) specified herein. Should the scope of the inspection exceed the area(s) specified herein, Conoco hereby reserves any and all of its rights to challenge the validity of the inspection, to seek the suppression and exclusion of

any and all evidence obtained directly or indirectly as a result of the inspection, and to seek the dismissal of any citations issued as a result of the inspection on the grounds that the inspection violates the rights of Conoco under the United States Constitution and the Occupational Safety and Health Act of 1970.

The following statement should be orally read to the CSHO prior to commencement of the inspection:

Conoco has complied with your request to inspect (specific area(s) referred to in the employee complaint, accident report or area(s) previously cited). Should the scope of the inspection exceed the area(s) specified, Conoco reserves its rights to challenge the validity of the inspection and to seek dismissal of any citations issued as a result of the inspection.

K. If the purpose of the inspection is either (a) an inspection pursuant to a general employee complaint, or (b) an inspection of an item previously cited which is being contested in a pending case, the CSHO should be required to get a warrant. The following statement should be orally read to the CSHO:

It is the continuing policy of Conoco to offer its complete cooperation to any governmental agency seeking to lawfully enforce federal, state or local laws or regulations. On the other hand, it is equally important to Conoco that such laws and regulations and the enforcement thereof be within the safeguards of the United States Constitution. We have been advised by our legal counsel that the United States Supreme Court has held in Marshall v. Barlow's, Inc., 436 U.S. 307 (1978), that inspections of a company's facilities, without the employer's consent, are unconstitutional in the absence of a valid search warrant. In view of the Barlow's decision and in view of Conoco's desire not to waive its Fourth Amendment rights under the United States Constitution, we are refusing to admit you to our plant.

L. If after being admitted for the purpose of making a limited inspection the CSHO attempts to broaden the scope of his inspection he should be asked to leave the work area and escorted back to the OIC's office. Do not forcibly stop

CCR 000002434

the CSHO from inspecting any area since such action may result in criminal liability, but tell the CSHO to stop his inspection and that you want to consult your lawyer before the inspection continues. The Legal Department should be consulted immediately.

M. If admission of the CSHO has been refused pursuant to paragraph K above, telephone the Area Director of OSHA, whose telephone number can be obtained from the CSHO, and explain that as a courtesy you are calling him to explain the company's position. Thereafter, read the OSHA Area Director the same statement and read to the CSHO (See Part I, paragraph K) and mail the Area Director a letter setting forth the same statement (See letter #2 of Appendix B).

N. Also, after admission of the CSHO has been refused, the employee representative(s) should be immediately advised of the company's position.

O. Notify the Legal Department of actions taken.

II. PRESENTATION OF A WARRANT

A. If the CSHO presents a search warrant, ask to see the warrant. Read the search warrant carefully, especially noting the specific machine, equipment, or condition to be inspected. Copy the contents of the search warrant.

B. Immediately call the Legal Department and the Department Safety Director (See Part I, paragraph H). Again, the CSHO should be advised you are calling your lawyer.

C. The following written statement of protest should be mailed to the Area Director of OSHA during the first day of the inspection and a copy hand-delivered to the CSHO, prior to commencement of the inspection (See letter #3 of Appendix B):

A Compliance Safety and Health Officer under your supervision presented a search warrant and requested to inspect Conoco premises on (date). Conoco has complied with the request. The inspection, however, is totally without the consent of Conoco and it is permitting the Compliance Safety and Health Officer to enter its premises under a general protest. [A specific protest may be made at this point depending upon the particular facts

CCR 000002485

involved in any given inspection. Such optional language, which should be inserted only with the advice of legal counsel, begins as follows:
"Without in any way limiting the foregoing general protest, Conoco specifically protests . . ."]
Conoco hereby reserves any and all of its rights to challenge the validity of the inspection, to seek the suppression and exclusion of any and all evidence obtained directly or indirectly as a result of the inspection, and to seek the dismissal of any citations issued as a result of the inspection on the grounds that the inspection violates its rights under the United States Constitution and the Occupational Safety and Health Act of 1970.

The following statement should be orally read to the CSHO prior to commencement of the inspection:

Although Conoco has complied with your request to inspect its premises, the inspection is totally without its consent. Conoco is permitting you to enter its premises under a general protest, and it reserves its rights to challenge the validity of the inspection and to seek dismissal of any citations issued as a result of the inspection.

D. Allow the CSHO to enter. Refusal of entry may result in criminal liability or a contempt of court charge.

III. OPENING CONFERENCE

A. During the opening conference the CSHO may upon request examine records that the company is required to keep under the Act. No other records should be provided on request or volunteered without first securing Legal Department approval. CSHOs may not examine personally identifiable employee medical information, except for the sole purpose of verifying employer compliance with OSHA medical record keeping requirements, without first obtaining a written access order approved by the Assistant Secretary of Labor or specific written consent of the employee. 29 C.F.R. § 1913.10.

B. OSHA has previously supplied the company with notices informing employees of their protections under the Act, and the CSHO may check to see that such notices are posted in conspicuous places where employee notices are usually posted. Since the notice informs employees that

they may contact their employer for copies of the Act, regulations and specific safety and health standards, the OIC should have a copy of the Act, regulations and standards readily available.

C. The following statement should be orally read to the CSHO during the opening conference:

Conoco has a number of highly confidential products and processes. We will attempt to identify these as the inspection proceeds and once identified, we expect OSHA to treat them confidentially pursuant to OSHA rules and regulations. In the event we overlook a confidential product or process during the inspection, Conoco reserves the right to bring these to OSHA's attention at a later date with the expectation that OSHA will treat them with confidentiality.

D. The OIC shall take the necessary steps to be sure that the CSHO complies with all company safety and health rules and practices at the facility and that he correctly wears and uses the appropriate protective clothing and equipment.

E. The OIC should request that the CSHO resolve any walkaround issues prior to starting the inspection.

IV. CONDUCT OF THE INSPECTION

A. The OIC should bring along the following items on the inspection tour:

1. Corporate OSHA Inspection Guidelines.
2. Corporate OSHA Inspection Form to be filled out for the Legal Department. (Appendix A)
3. Note pad. (Do NOT show any notes written prior to, during or after the inspection to the CSHO under any circumstances. They need not be hidden. They simply should not be made available for inspection or review.)
4. Pre-selected camera and flash equipment. The camera should take good quality photographs and be readily available at all times. Since ordinary flash equipment cannot be used safely in certain flammable atmospheres, the flash equipment must be carefully selected so that its use does not violate any OSHA standards.

B. Allow the CSHO to conduct his inspection of the equipment or condition specifically mentioned in the search warrant, employee complaint, accident report or prior citation, as the case may be. Section 8(e) of the Act gives walk-around rights, i.e., the right to accompany the CSHO during the inspection, to both a management representative and an employee representative.

The management representative should be an OIC or alternate. At least two management representatives should accompany the CSHO on the inspection tour. If there are more than two CSHOs, the number of management representatives should at least equal the number of CSHOs on the inspection tour. A separation of inspection tours and CSHOs should not be permitted. The OIC shall request identification of any expert assistants accompanying a CSHO, and if they are not OSHA employees, a resume should be requested. The Legal Department should then be consulted to determine if any objection to their presence should be made of record.

C. The OIC should take detailed written notes of all remarks and questions asked by the CSHO. Describe the "appropriate route" the CSHO takes through the plant in these notes (See Part I, paragraph B). The OIC shall not:

- answer technical questions posed by the CSHO or expert assistants; or
- provide access to management for CSHO's or expert assistants' interview purposes; or
- volunteer information; or
- discuss matters unrelated to the inspection with employees.

D. The OIC should photograph every condition photographed by the CSHO. Note the type of camera, flash equipment and any special attachments used by the CSHO. At the conclusion of the inspection, request copies of all photographs taken by the CSHO.

E. The OIC should measure, sample and observe whatever conditions the CSHO measures, samples and observes. Any variances between the monitoring results reached by the OIC during concurrent monitoring and those recorded by the CSHO should be immediately brought to the CSHO's attention and described in written notes provided, of course, the results

12/4/80

of the OICs are more favorable to the company. Also, describe in detailed written notes the type of monitoring equipment and the monitoring procedure used by the CSHO.

F. If an CSHO seeks to attach a monitoring or sampling device to an employee, the OIC should ask the CSHO to stop his inspection so that the OIC can call his lawyer. The Legal Department should be notified immediately. (See Part I, paragraph H)

G. The CSHO has the right to confer privately with employees under Section 8(a)(2) of the Act, so long as that right is exercised in a reasonable manner. Although the OIC does not have an absolute right to be present during a conversation between the OIC and an employee, he should request to be present. The names of any employees who had private conversations with the OIC should be recorded. If the CSHO would like to talk privately with an individual employee who cannot reasonably be allowed to leave his work station at that time, the CSHO should be informed of this and told that the employee will be made available as soon as possible. NOTE: It is a violation of the law to retaliate against any employee who cooperates with an CSHO.

H. The OIC should not volunteer information or documents, or offer additional areas for inspection. Statements made by the OIC could be used as admissions against the company in a subsequent OSHA hearing. The company has the right to insist that all questions to its representatives be asked under oath in the presence of counsel.

V. TRADE SECRETS

A. Section 15 of the Act requires OSHA to treat any trade secret in confidence. The OIC should identify any areas which contain or might reveal a trade secret. Any information obtained by the CSHO in such areas, including all photographs and samples, should be labeled "confidential - trade secret". 29 C.F.R. § 1903.9.

B. If the CSHO requests to inspect any areas which contain or might reveal a trade secret, the following written statement should be mailed to the Area Director of OSHA during the first day of the inspection. (See letter #4 of Appendix B). A copy of the statement should be hand-delivered and orally read to the CSHO prior to inspecting any areas which contain or might reveal a trade secret:

A Compliance Safety and Health Officer under your supervision has requested to inspect (specific areas which contain or might reveal a trade secret) of Conoco on (date). Since the described areas contain or might reveal a trade secret, we are requesting that any information obtained by the Compliance Safety and Health Officer in such areas, including all photographs and samples, be labeled "confidential - trade secret", and we trust that OSHA will treat them confidentially pursuant to OSHA rules and regulations. In the event we have overlooked a confidential product or process during the present inspection, Conoco reserves the right to bring these to OSHA's attention at a later date with the expectation that OSHA will treat them with confidentiality.

VI. CLOSING CONFERENCE

A. The primary purpose of the OIC in the closing conference shall be to LISTEN; however, the CSHO should be questioned as to all areas of possible and probable violations. If the CSHO indicates that a citation will be issued, he should be questioned specifically as to what constitutes abatement, as an alleged violation cannot be established unless OSHA proves not only what constitutes abatement, but both the feasibility and likely utility thereof. This should give the OIC a good reading as to those items that a citation will contain. Also, it will enable the company to take evidence and begin preparing our case while the evidence is still "fresh". Often, citations are not received for days or even weeks.

B. A request should be made for copies of all photographs taken by the CSHO during the inspection as well as all samples and results.

C. Immediately following the conference, the information received in the closing conference should be relayed to the Legal Department. (See Part I, paragraph H).

VII. FOLLOWING THE INSPECTION

A. The OIC should complete the Corporate OSHA Inspection Form (Appendix A). The Corporate OSHA Inspection Form and any notes taken during the inspection should be mailed promptly to:

CCR 000002490

[name and address of Attorney in Corporate Legal
Department designated to receive this information].

One copy of the Corporate OSHA Inspection Form and any notes taken during the inspection should be kept confidentially until notified of receipt of the originals by the Corporate Legal Department or Corporate Legal Counsel. Such copy should then be destroyed. Under no circumstances should the Corporate OSHA Inspection Form or any notes be shown or given to the OSHA inspector.

B. All applicable letters to the Area Director of OSHA (See Appendix B) should be mailed during the first day of the inspection in accordance with the following provisions of the Corporate OSHA Inspection Guidelines:

Limited consent to inspection	Part I, paragraph J
Insistence on a warrant	Part I, paragraph K
Inspection under protest	Part II, paragraph C
Trade secrets	Part III, paragraph C

One copy of each letter mailed to the Area Director of OSHA should be mailed simultaneously to:

[name and address of Attorney in Corporate Legal
Department designated to receive copies of the
foregoing letters].

APPENDIX A

CORPORATE OSHA INSPECTION FORM

In anticipation that this inspection could lead to legal proceedings, you are to fill out this form during every OSHA inspection to assist our company lawyers in protecting the company's rights during any hearings, trials, or other legal proceedings which might arise as a result of this inspection. For further explanation, see the applicable provisions of the Corporate OSHA Inspection Guidelines set out in parentheses. Please attach additional pages when needed to complete any question(s) and copies of the requested documents.

1. OSHA inspection coordinator: _____
Name
2. Date of inspection: _____
3. Identity of OSHA inspector: _____
Name Title
4. OSHA Area Director: _____
Name Telephone number
Address

5. State reason(s) for inspection (Part I , F):

- A. Did OSHA receive an employee complaint? (Part I , F.1) _____

If so, describe the nature of the complaint, the machine, equipment or condition it specifically relates to, and the type of problem it involves:

Attach a copy of the complaint to this form.

CCR 000002492

- E. Has there been a workplace fatality? (Part I , F.2) _____
If so, describe the nature and location of the incident which
resulted in the fatality: _____

Attach a copy of the report supplied to OSHA within 48 hours of the
incident.

- C. Has there been an accident which resulted in the hospitalization of
five or more employees? (Part I , F.2) _____

If so, describe the nature and location of the accident and the result-
ing injuries: _____

Attach a copy of the report supplied to OSHA within 48 hours of the
accident.

- D. Is this a follow-up inspection of an item previously cited? (Part I ,
F. 3) _____

If so, identify the previous citation, proposed penalty and abatement
plan, if any: _____

Attach a copy of the previous citation and the OSHA inspector's work-
sheets relating to the citation, if available.

E. Is this a regional programmed inspection? (Part I , F. 4) _____

If so, describe the inspection program and the criteria used to select this particular facility for inspection:

6. Is this an inspection of a multi-employer worksite? (Part I ,G) _____

If so, list the names of all other employers and the number of workers employed by each employer who are present on the worksite, with a brief description of the nature of the work being performed:

7. Is there any pending OSHA litigation in which the company is presently involved? (Part I ,H) _____

If so, was the Corporate Legal Department notified? _____

Name of lawyer notified _____

Time and date of notification _____

8. Did the OSHA inspector seek to conduct the inspection outside of regular working hours? (Part I ,H) _____

If so, state time of requested inspection and regular working hours:

If so, was the Corporate Legal Department notified? _____

Name of Lawyer notified _____

Time and date of notification _____

9. If no search warrant was presented, did you consent to a limited inspection? (Part I ,I) _____

A. If so, did you read an oral statement of limited consent to the OSHA inspector? (Part I ,J) _____

Time and date oral statement read _____

B. Describe the specific machine, equipment or condition you permitted the OSHA inspector to inspect in your oral statement of limited consent:

C. If so, did you hand-deliver a copy of a letter of limited consent addressed to the Area Director of OSHA to the OSHA inspector? (Letter #1 of Appendix B) _____

Time and date letter was delivered _____

Attach a copy of the letter of limited consent which was mailed to the Area Director of OSHA during the first day of the inspection.

D. Did the OSHA inspector attempt to broaden the scope of the inspection after being admitted for the purpose of making a limited inspection? (Part I ,L) _____

If so, describe the machines, equipment or conditions which you refused to allow the OSHA inspector to inspect and the reason(s) given for such refusal:

If so, did you contact the Corporate Legal Department before objecting to the inspection? _____

Name of lawyer notified _____

Time and date of notification _____

CCR 000002495

10. If no search warrant was presented, did you refuse the OSHA inspector entry? (Part I , K) _____

A. If so, did you read an oral statement to the OSHA inspector explaining the company's position? (Part I , K) _____

Time and date oral statement read _____

B. If so, did you telephone the Area Director of OSHA and explain the company's position? (Part I , M) _____

Time and date of notification _____

Attach a copy of the letter explaining the company's position which was mailed to the Area Director of OSHA. (Letter #2 of Appendix B)

C. If so, did you advise employee representative(s) of the company's position? (Part I , N) _____

Name of employee representative(s) notified _____

Time and date of notification _____

11. Did the OSHA inspector present a search warrant upon arrival? (Part II) _____

A. If so, describe the contents of the search warrant and the specific machine, equipment, or condition to be inspected:

Attach a copy of the search warrant if it was given to you.

B. If so, was the Corporate Legal Department notified? (Part II , B) _____

Name of lawyer notified _____

Time and date of notification _____

14. List all machines, equipment or conditions inspected and their exact location:

15. State the names and titles of management representatives who accompanied the OSHA inspector during the inspection tour (Part IV, B):

16. State the names and titles of employee representatives who accompanied the OSHA inspector during the inspection tour (Part IV, B):

17. Describe the route taken by the OSHA inspector during the inspection tour (Part IV, C):

18. Describe in detail any relevant remarks made during the inspection by both the OSHA inspector and any employees, and identify the speaker (Part IV, C):

19. Describe in detail any objections made prior to or during the inspection and identify the objector:

20. Identify any photographs taken by the OSHA inspector, including location, time of day, date, and the names of any employees in the photograph (Part IV, D):

A. Describe the type of camera, flash equipment and any special attachments used by the OSHA inspector:

B. Did you request copies of the photographs taken by the OSHA inspector?

21. Identify any photographs taken by a management representative, including photographer, location, time of day, date, and the names of any employees in the photograph (Part IV, D):

A. Describe the type of camera, flash equipment and any special attachments used by a management representative:

22. Describe any monitoring conducted by the OSHA inspector, including the equipment used, monitoring procedure, time of day, date, and the results of such monitoring, if known (Part IV, E):

23. Describe any monitoring conducted by a management representative, including the equipment used, monitoring procedure, time of day, date, results and any variances between results of monitoring conducted by the OSHA inspector and management. Indicate which monitoring, if any, was conducted concurrently with the OSHA inspector's monitoring (Part IV, E):

24. Did any OSHA inspector seek to attach a monitoring or sampling device to an employee? (Part IV, F)

If so, describe the monitoring or sampling device and identify the employees involved:

If so, was the Corporate Legal Department or Corporate Legal Counsel notified?

Name of lawyer notified _____

Time and date of notification _____

25. List the names of any employees interviewed by the OSHA inspector and state whether a management representative was present during the interview. If a management representative was present, state his/her name and a summary of the interview (Part IV, G):

26. Describe any area(s) identified as containing or possibly revealing a trade secret (Part V , A):

- A. Did you read an oral statement identifying such area(s) to the OSHA inspector? (Part V , B) _____

Time and date oral statement read _____

- B. Did you hand-deliver a copy of a letter identifying trade secrets addressed to the Area Director of OSHA to the OSHA inspector? (Letter #4 of Appendix B). _____

Time and date letter was delivered _____

Attach a copy of the letter identifying trade secrets which was mailed to the Area Director of OSHA during the first day of the inspection.

- C. List any materials, such as photographs and samples, which were labeled "confidential-trade secret" (Part V , A): _____

27. Describe in detail any remarks made during the closing conference and identify the speaker: (Part VI)

28. This form*, additional pages needed to complete this form, copies of requested documents, and any notes taken during the inspection should be mailed to:

[name and address of person in Corporate Legal Department designated to receive the foregoing information.]

One copy should be kept confidentially until notified of receipt of the originals by the Corporate Legal Department or Corporate Legal Counsel. Such copy should then be destroyed.

*If this OSHA Inspection Form is to be distributed in any manner, it will be distributed only by [name of person in Corporate Legal Department or Corporate Legal Counsel designated to distribute the foregoing information.]

APPENDIX B

LETTERS TO BE MAILED TO THE AREA DIRECTOR OF OSHA

Letter # 1	-	Limited Consent to Inspection
Letter # 2	-	Insistence on a Warrant
Letter # 3	-	Inspection Under Protest
Letter # 4	-	Trade Secrets

LETTER #1

Area Director
Occupational Safety and Health Administration
U. S. Department of Labor

Dear

A Compliance Safety and Health Officer under your supervision has requested to inspect (specific area(s) referred to in the employee complaint, accident report or area(s) previously cited) (plant) ("Conoco") on (date). Conoco has complied with the request. The inspection, however, is with the consent of Conoco only as to the area(s) specified herein. Should the scope of the inspection exceed the area(s) specified herein, Conoco hereby reserves any and all of its rights to challenge the validity of the inspection, to seek the suppression and exclusion of any and all evidence obtained directly or indirectly as a result of the inspection, and to seek dismissal of any citations issued as a result of the inspection, on the grounds that the inspection violates the rights of Conoco under the United States Constitution and the Occupational Safety and Health Act of 1970.

A copy of this letter was hand-delivered to the Compliance Officer before he began the inspection.

Very truly yours,

CCR 000002505

Letter #2

Area Director
Occupational Safety and Health Administration
U. S. Department of Labor

Dear

The following statement was read today to a Compliance
Safety and Health Officer under your supervision:

It is the continuing policy of the (plant)
("Conoco") to offer its complete cooperation to any
governmental agency seeking to lawfully enforce fed-
eral, state or local laws or regulations. On the other
hand, it is equally important to Conoco that such laws
and regulations and the enforcement thereof be within
the safeguards of the United States Constitution. We
have been advised by our legal counsel that the United
States Supreme Court has held in Marshall v. Barlow's,
Inc., 436 U.S. 307 (1978), that inspections of a com-
pany's facilities, without the employer's consent, are
unconstitutional in the absence of a valid search
warrant. In view of the Barlow's decision and in view
of Conoco's desire not to waive its Fourth Amendment
rights under the United States Constitution, we are
refusing to admit you to our plant.

Very truly yours,

CCR 000002506

Letter #3

Area Director
Occupational Safety and Health Administration
U.S. Department of Labor

Dear

A Compliance Safety and Health Officer under your supervision presented a search warrant and requested to inspect (plant) ("Conoco") premises on (date). Conoco has complied with the request. The inspection, however, is totally without the consent of Conoco and it is permitting the Compliance Safety and Health Officer to enter its premises under a general protest. [A specific protest may be made at this point depending upon the particular facts involved in any given inspection. Such optional language, which should be inserted only with the advise of legal counsel, begins as follows: "Without in any way limiting the foregoing general protest, Conoco specifically protests..."] Conoco hereby reserves any and all of its rights to challenge the validity of the inspection, to seek the suppression and exclusion of any and all evidence obtained directly or indirectly as a result of the inspection, and to seek the dismissal of any citations issued as a result of the inspection on the grounds that the inspection violates its rights under the United States Constitution and the Occupational Safety and Health Act of 1970.

A copy of this letter was hand-delivered to the Compliance Officer before he began the inspection.

Very truly yours,

Letter #4

Area Director
Occupational Safety and Health Administration
U.S. Department of Labor

Dear

A Compliance Safety and Health Officer under your supervision has requested to inspect (specific areas which contain or might reveal a trade secret) of (plant) ("Conoco") on (date). Since the described areas contain or might reveal a trade secret, we are requesting that any information obtained by the Compliance Safety and Health Officer in such areas, including all photographs and samples, be labeled "confidential - trade secret," and we trust that OSHA will treat them confidentially pursuant to OSHA rules and regulations. In the event we have overlooked a confidential product or process during the present inspection, Conoco reserves the right to bring these to OSHA's attention at a later date with the expectation that OSHA will treat them with confidentiality.

A copy of this letter was hand-delivered to the Compliance Officer before he began inspecting areas which contain or might reveal a trade secret.

Very truly yours,

CCR 000002508

Appendix C

Sample OSHA Inspector Credentials

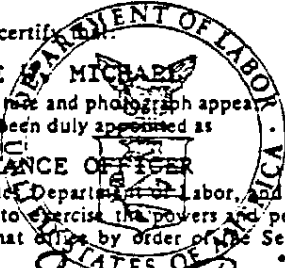
U.S. Department of Labor
Washington, D. C.

This is to certify that

LESLIE MICHAEL
whose signature and photograph appear
hereon has been duly appointed as

COMPLIANCE OFFICER
United States Department of Labor, and as such is
authorized to exercise the powers and perform the
duties of that office by order of the Secretary of
Labor.

Leslie Michael
Signature





Euler Bernhart V.
Assistant Secretary of Labor

5720

CCR 000002509

Occupational Safety and Health Administration
Complaint

U.S. Department of Labor



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

Form Approved
OMB No. 0448-1449

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

NOTE: Section 11 (c) of the Act provides explicit protection for employees exercising their rights, including making safety and health complaints.

For Official Use Only			
Area	Date Received	Time	
Region	Received By	Formal	☐
		Non Formal	☐

The undersigned (check one)

☐ Employee ☐ Representative of Employees ☐ Other (specify) _____

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

Employer's Name _____

Employer's Address (Street) _____ (City) _____

State _____ (Zip Code) _____ Telephone _____

1. Kind of business _____

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

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

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

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

NARRATIVE

1. CSHO No. 2. Report No.

3. Employer Name

4. Type Of Legal Entity

5. Type Of Business Or Plant

6. NAMES AND ADDRESSES OF ALL
ORGANIZED EMPLOYEE GROUPS

Name
Local No. Tele No.
Address
Zip Code

7. AUTHORIZED REPRESENTATIVES OF EMPLOYEES

Name Tele No.
Organization Title
Home Address
Zip Code

W
A
☐
Y
☐
N
☐
Y
☐
N

8. EMPLOYER REPRESENTATIVES
CONTACTED

Name Title Function
1 - Organized Employer
2 - Other Agent Official
3 - Consulting Firm

W
A
☐
Y
☐
Y
☐
Y

9. OTHER PERSONS CONTACTED

Name, Occupation & Affiliation
Home Address Tele No.
Zip Code
Name, Occupation & Affiliation
Home Address Tele No.
Zip Code

10. COVERAGE INFORMATION

Name, Occupation & Affiliation
Home Address Tele No.
Zip Code

11. Date & Time of Entry

12. Date & Time Workaround Began

13. Date & Time Closing Conference Began
(1) (2)

14. Date & Time of Exit

15. EVALUATION OF SAFETY AND HEALTH PROGRAM (Codes: 0 = None/Not 1 = Inadequate 2 = Average 3 = Above Average)

Comprehensiveness of Safety & Health Program 0 1 2 3
Written? Y N
Copy Enclosed? Y N
Communication of Program to Employees 0 1 2 3
How?
Safety Meetings 0 1 2 3
Frequency?
By Whom?
Enforcement 0 1 2 3
How?
Safety Training Program 0 1 2 3
Health Training Program 0 1 2 3
Safety Staff Y N
Health Staff Y N
Accident/Injury Investigations Performed 0 1 2 3
Preventative Action Taken Y N

Health Monitoring Program 0 1 2 3
Hazard?
Medical Programs 0 1 2 3
Frequency?
Agent?
Extent?
Control?
Hazard Control - Engineering & Administration 0 1 2 3
- Personal Protective Equipment 0 1 2 3
- Regulated Areas 0 1 2 3
- Emergency Procedures 0 1 2 3
Records 100 - 101 - 102 - Supplementary Health
If EH, specify
Notice to Employees (Poster) Y N
Add'l Comments:

16. FOLLOW-UP INSPECTION RECOMMENDED. Yes ☐ No ☐ Reason.

17. CSHO Signature & Date

18. Accompanied By

WORKSHEET

Form OSHA-10
(11/76)

CCR 000002512