

Exhibit 1

THE INDUSTRIAL COMMISSION OF ARIZONA



CHARLES W. PINE, CHAIRMAN
EUGENE J. LANE, VICE CHAIRMAN
MARTIN LEON, SR., MEMBER
G. VERNON MCCrackEN, MEMBER
DANIEL R. ORTEGA, JR., MEMBER
MARY T. LAMB, SECRETARY

P.O. BOX 19070
PHOENIX, ARIZONA 85005

LOCATION
1624 WEST ADAMS

DIVISION OF
OCCUPATIONAL SAFETY & HEALTH
LARRY ETCHENCHURY, DIRECTOR

February 12, 1981

RECEIVED
FEB 17 1981
OSHA-F/ISO

Ms. Carolyn Compton, Prog. Analyst
U. S. Department of Labor, OSHA
450 Golden Gate Avenue
San Francisco, CA 94102

Dear Carolyn:

In response to questions resulting from Plan Change Supplement No. 8, dated February 21, 1980, the following is offered as a clarification:

The State Legislature was explicit in their intent to provide a checks and balance system to avoid potential abuse with respect to penalties issued by the State of Arizona. In Arizona Revised Statute §23-418(i), the State Legislature explicitly required that the Commission assess all civil penalties, giving due consideration to gravity, number of employees, good faith of the employer and history of previous violations.

The Industrial Commissions, in my opinion, have carried their statutory burden in an extremely professional and unbiased manner. I cannot recall a case where the formula-based penalty was reduced without a factual showing of good faith on the part of the employer, in attempting to comply with the Arizona Occupational Safety and Health Act.

Although it is impractical to detail every situation that has resulted in a reduction in penalty, the following are recent examples, which are representative of the types of cases involving reductions in the formula-based penalty, detailed in the Field Operations Manual:

1. We conducted a followup inspection on an employer who had previously been cited (serious) for the lack of a guard on a right-angle grinder. Our inspection determined that subsequent to the initial inspection, but prior to the followup inspection, the employer had contacted a supplier, issued a purchase order for the guard in question. During the course of the followup inspection, we found that specific grinder was still lacking a guard. Contacts with the supplier indicated that the guard was, in fact, on order; and that, for reasons beyond the employer's control, guard had not been delivered as promised. The bottom line for this situation was that the employer's only failure was in not notifying the Division for an extension of the abatement period. It was clear that the employer had attempted to comply with his statutory obligations and for reasons beyond his particular control was not able to do so. In this case, a Failure to Abate citation was issued with no penalty.
2. The second example is where an employer voluntarily attempts to comply with his statutory burden by providing protection (i.e., guards, personal protective equipment, etc.) for his employees, but because he does not understand the specificity required in the respective standards, he fails to meet those technical requirements. In these cases, the employer is subject to a citation and potential monetary penalty. The Commission's position has been consistently to reduce formula-based penalties

where an employer voluntarily has attempted to comply with the standards in question. Reasons for employers misunderstanding the standards are too numerous to detail in this letter. They range from a lack of education, misinformation provided from a number of sources and poorly-worded standards. I happen to agree with this position.

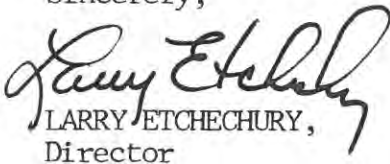
3. The third example is with respect to political subdivisions; i. e., school districts. Because of the well-known fact in Arizona that schools are undergoing severe budgetary difficulties, the Commission has been receptive to reductions in penalties (not deletions) for violations involving first instance sanctions.

It is important to note that the Commission's actions have also increased formula-based penalties. Increases have occurred where the Commission felt that the gravity of the violation was such that a more severe penalty would be appropriate. This has happened on numerous occasions, especially as it relates to lack of shoring in trenching operations.

Hopefully the above clarifies Plan Change Supplement No. 8.

If you have any additional questions, please don't hesitate to contact us.

Sincerely,


LARRY ETCHECHURY,
Director

LE/rw

Exhibit 2

U.S. Department of Labor

Occupational Safety and Health Administration
450 Golden Gate Avenue
San Francisco, California 94102



Reply to the Attention of:

DATE: April 28, 1980

MEMORANDUM FOR: Grover Wrenn

THRU: Roger Clark

ATTN: Margie Sauber

FROM: Hamilton Fairburn *ham*
ARA

SUBJECT: Arizona Plan Changes

Attached are four copies of Arizona's response to your April 8, 1980 memorandum.

We have reviewed the response, consider it appropriate and request your approval.

Attachments

(end)

cc: Garcia

ARIZONA PCS Binder
8

DATE: February 19, 1981

MEMORANDUM FOR: Bruce Hillenbrand, Acting Director
Federal Compliance and State Programs

THROUGH: John Miles
Field Coordinator

ATTENTION: Margie Sauber
Region IX Project Officer

FROM: Hamilton Fairburn
ARA for E/SO

SUBJECT: Supplemental Information on Item 2, Plan Change Supplement
No. 8: Clarification of the Industrial Commission of
Arizona Penalty Review Process

Enclosed are four copies of subject clarification. Region IX has reviewed this supplemental information and determined it sufficiently explains the ICA's role in penalty assessment. Additionally, Carolyn Compton and I were present at an ICA meeting January 22, 1981, and witnessed the process. All five Commissioners showed knowledge of and interest in each case presented by Director Etchechury. They concurred with his proposed penalties in all cases except one in which they raised the penalty \$200 on a citation involving lack of shoring in a trenching operation.

Approval is recommended.

Enclosures

cc: Garcia (w/enclosure)
Compton "

(end)

CC/cfo
2/19/81
cc: Day, Reading, Official File

cc 2/19/81

Exhibit 3

U.S. Department of Labor

Occupational Safety and Health Administration
450 Golden Gate Avenue
San Francisco, California 94102



Reply to the Attention of:
ICA-SAFETY

'84 JUN 12 A9:26

June 6, 1984

Mr. Larry Etchechury, Director
Division of Occupational Safety and Health
State of Arizona
P.O. Box 19070
Phoenix, Arizona 85005

Dear Larry:

I have reviewed the comments in your letter of May 24, 1984 and have no problem with your proposals concerning the Continuous Consultation Program and the issue regarding Access to Employee Exposure and Medical Records.

With regard to the Penalty Policy, there is no objection to the policy itself, however, it should be included in your FOM. The reason for this, is to assure that everything is properly documented.


I have enclosed a Table of Contents, which lists the documents which were submitted for the review and final determination of the Hawaii State Plan. These documents were made available to the public through our National Office, as well as the Region and the Hawaii State Office. Similar documents will be made available regarding the Arizona State Plan. As you can see, documents, such as plan change supplements are not included. Therefore, it is essential that all issues be included in the appropriate source document.

The issue regarding your Penalty Policy could be included in your FOM as follows:

"The Arizona Revised Statute 23-418. I. authorizes the Industrial Commission of Arizona to assess civil penalties. The ICA permits the Director of the Division of Occupational Safety and Health to assess penalties up to \$100. Penalties in excess of \$100 require review and approval of the ICA.

The review of such penalties is conducted in an open hearing before the ICA, which consists of labor, management and Commission members."

Sincerely,


HAMILTON H. FAIRBURN
Assistant Regional Administrator

cc: A. Perkins

Enclosures

BG/aew

Exhibit 4

THE INDUSTRIAL COMMISSION OF ARIZONA

DANIEL R. ORTEGA, JR., CHAIRMAN
ANN DAY ALEXANDER, VICE CHAIRMAN
CHARLES W. PINE, MEMBER
G. VERNON MCCRACKEN, MEMBER
DUANE D. PELL, MEMBER
MARY T. LAMB, SECRETARY

P.O. BOX 19070
PHOENIX, ARIZONA 85005

LOCATION
1624 WEST ADAMS



DIVISION OF
OCCUPATIONAL SAFETY & HEALTH
LARRY ETCHECHURY, DIRECTOR
(602) 255-5795

July 11, 1984

Mr. Russell B. Swanson, Regional Administrator
U. S. Department of Labor, OSHA
450 Golden Gate Avenue, Box 36017
San Francisco, CA 94102

Re: Plan Change Supplement #19, Part E

Dear Mr. Swanson:

In accordance with 29CFR1953.21, The Industrial Commission of Arizona, Division of Occupational Safety and Health hereby formally submits the changes to eight chapters of the Arizona Field Operations Manual along with the updated index. These changes are to Chapters II, III, IV, V, VI, VII, VIII and IX and are designated as Part E of Plan Change Supplement #19.

These changes are in accordance with CPL 2.45A CH-3 and CH-4.

You will also note that on page one of Chapter VI we have incorporated the language requested in Ham Fairburn's letter of June 6, 1984. This language references the Arizona Statute which authorizes the Industrial Commission to assess civil penalties.

If you have any questions concerning any of the above, please don't hesitate to contact me.

Sincerely,

LARRY ETCHECHURY,
Director

Attachments

LE/rw

cc: Ed Graham, Phoenix A/D
Norm Cole

CHAPTER VI
PENALTIES

A. Civil Penalties

1. Type of Violation as a Factor. In proposing civil penalties for violations, a distinction is made between serious violations and all other violations. There is no statutory requirement that a penalty be proposed when the violation is not serious; but a penalty must be proposed when the violation is serious. The maximum penalty that may be proposed for a serious or a non-serious violation is \$1,000. In the case of willful or repeated violations, a civil penalty of up to \$10,000 may be proposed. For other specific violations of the Act, civil penalties of up to \$1,000 may be proposed. Penalties for failure to correct a violation may be up to \$1,000 for each calendar day that the violation continues beyond the stated abatement date.
2. Serious and Non-Serious Violations. Section 23-418(B) of the Act provides that any employer who has received a citation for an alleged violation of the Act which is determined to be of a serious nature shall be assessed a civil penalty of up to \$1,000 for each violation. Section 23-418(C) provides that, when the violation is specifically determined not to be of a serious nature, a proposed civil penalty of up to \$1,000 may be assessed for each violation. Section 23-418(H) provides that, when a violation of a posting requirement is cited, a civil penalty of up to \$1,000 shall be assessed.

NOTE: Section 23-418(I) of the Act specifies that the Commission has the authority to assess all civil penalties. By stated policy, the Commission reviews and approves all penalties issued which are more than \$100. For those penalties of \$100 or less, the Director is the issuing authority. The review of such penalties is conducted in an open meeting before the ICA, which consists of Labor, Management and Commission members.

- a. Penalty Factors. Section 23-418(I) of the Act provides that penalties shall be assessed on the basis of four factors:
 - (1) The gravity of the violation,
 - (2) The size of the business,
 - (3) The good faith of the employer, and
 - (4) The employer's history of previous violations.
- b. Amount of Penalty. Using procedures for calculating penalties as outlined in this chapter, gravity-based penalties for violations shall range from \$100 to \$1,000 for each violation. (See the OSHA Directives System for current congressional exemptions and limitations placed on penalties.)

Exhibit 5

THE INDUSTRIAL COMMISSION OF ARIZONA
DIVISION OF OCCUPATIONAL SAFETY & HEALTH



EDWARD J. RYLE, CHAIRMAN
GORDON MARSHALL, VICE CHAIRMAN
GAY CONRAD KRUGLICK, MEMBER
JAMES B. WHITTEN, MEMBER
ANTONIO DOMINGUEZ, MEMBER

P.O. BOX 19070
PHOENIX, ARIZONA 85005-9070

DEREK MULLINS, DIRECTOR
(602) 542-5795

MARY T. LAMB, SECRETARY

February 5, 1992

Mr. Kevin Lawless, Area Director
U.S. Department of Labor, OSHA
3221 North 16th Street, Suite 100
Phoenix, Arizona 85016

Dear Mr. Lawless:

Enclosed is the Revised State Plan for Arizona. Two copies have been sent to Mr. Strasheim at the Regional Office.

If you have any questions, or areas of concern, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Derek Mullins".

DEREK MULLINS,
Director

rw

Enclosure

cc: Frank Strasheim, w/attachments

STATE OF ARIZONA
OCCUPATIONAL SAFETY AND HEALTH PLAN

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Chapter 1
OCCUPATIONAL SAFETY AND HEALTH PROGRAM
STATE PLAN
SUBMITTED BY THE STATE OF ARIZONA

I. INTRODUCTION

In 1971, at the behest of both employers and labor unions in Arizona, Governor Jack Williams notified the U. S. Department of Labor (USDOL) of Arizona's intention to exercise jurisdiction over occupational safety and health issues pursuant to Section 18 of the Federal Occupational Safety and Health Act of 1970. The following year, the Legislature enacted the Arizona Occupational Safety and Health Act of 1972 which charged the Industrial Commission with the responsibility for developing and administering the State Program. In October 1974, the USDOL approved an operational agreement allowing the Division of Occupational Safety and Health of the Industrial Commission to begin enforcing the Occupational Safety and Health Standards in Arizona. From March 1975 until June 1985, Arizona's program operated under the close scrutiny of the USDOL. On June 20, 1985, Arizona's program became the 5th State Program to be certified by the USDOL as being as effective as the Federal OSHA program in standards, authority for inspections, qualified personnel, and resources.

The succeeding chapters provide an analysis of the State Plan for Arizona. The second and third chapters essentially analyze the organization designated to implement the State Plan, the general structure of the program and the inspection procedures.

These three chapters are supplemented with appendices in order to provide detailed analysis of the Occupational Safety and Health Plan developed by the State of Arizona to be "as effective as" the United States Department of Labor.

In this presentation, unless the context otherwise requires:

"

1. "Commission" means the Industrial Commission of Arizona.
2. "Division" means the Division of Occupational Safety and Health of the Industrial Commission of Arizona.
3. "Director" means the Director of the Division.
4. "Act" means the Arizona Occupational Safety and Health Act of 1972, as amended.
5. "CO" means State Occupational Safety and Health Compliance Officer.
6. "A.R.S." means Arizona Revised Statutes.
7. "IMIS" means Integrated Management Information System.
8. "Plan" means the Arizona 18(b) Plan.
9. "A.A.C." means the Arizona Administrative Code

CHAPTER II

II. STRUCTURE OF DESIGNATED AGENCY

The Industrial Commission of Arizona has been designated by the Governor and the Legislature of the State of Arizona as the agency responsible for the administration of the State Occupational Safety and Health Program. The Industrial Commission is ideally suited for such responsibility inasmuch as its other responsibilities also center on the conditions and problems of the working men and women in this state.

A. INDUSTRIAL COMMISSION OF ARIZONA

The Industrial Commission of Arizona was formed pursuant to the Arizona Revised Statutes, Title 23, Chapter 1. The present structure became effective January 8, 1969.

The Commission is composed of five members appointed by the Governor with the consent of the Senate. Terms of the members shall be for five years with one retiring each year. Membership is such that no more than three will be from the same political party. Each member must have been a resident of the State for at least five years preceding his/her appointment to the Commission. These members appoint the Director of the Commission, who is the administrative head of the Commission.

The Commission is composed of seven divisions to carry out the functions described in the statutes. These divisions are:

1. Administration
2. Administrative Law Judge
3. Claims
4. Labor
5. Legal
6. Occupational Safety and Health
7. Special Fund

1. ADMINISTRATION DIVISION

The Administration Division has supportive functions for all other divisions of the Commission. These include accounting, personnel, data processing, mail, purchasing, and supply.

2. ADMINISTRATIVE LAW JUDGE DIVISION

If an injured workman, his employer, the insurance carrier, or any interested party, disputes a decision on a workmen's compensation claim by the insurance carrier or self-insured employer, that person has a lawful right to file a request for a hearing. The Commission, in turn, refers the request to its Administrative Law Judge Division for prompt disposition. In

addition, effective August 14, 1972, the Administrative Law Judge Division has the responsibility for holding hearings with respect to the administration of the Occupational Safety and Health Program, pursuant to A.R.S. § 23-420. All Administrative Law Judges, appointed by the Commission, must be members of the Arizona State Bar, and become fulltime ICA employees.

3. CLAIMS DIVISION

A main duty of the Commission is to assure that each injured employee is properly cared for in compliance with the State Workmen's Compensation Laws. When an employee is injured or suffers an occupational disease at his place of employment, a claim must be filed with the Commission, and the Claims Division oversees the processing of such claims.

4. LABOR DIVISION

This Division of the Commission has the primary responsibility for administering and enforcing the labor laws in Arizona pursuant to Title 23 of the Arizona Revised Statutes. These pertain to payment of wages, employment practices, employment of women and children, minimum wages and so forth.

5. LEGAL DIVISION

The Legal Division provides legal assistance for all Divisions of the Commission. Therefore, this Department is responsible for providing legal guidance for the Occupational Safety and Health Program.

6. OCCUPATIONAL SAFETY AND HEALTH DIVISION

The Occupational Safety and Health Division was originally formed pursuant to Arizona Revised Statutes Title 23, Chapter 2, Article 10 on January 8, 1969, and was reorganized by amendment effective August 14, 1972. Subsequently, the Act has been amended in 1974, 1985, 1986, and 1990 (See Appendix A). It is the responsibility of the Division to enforce the Occupational Safety and Health Act of 1972. For the detailed structure of the Occupational Safety and Health Division see Chapter III. The following are activities for which OSHA has no standards and/or jurisdiction which are 100% State-funded:

a. ELEVATOR SECTION

The Elevator Section is responsible for the administration and enforcement of standards and regulations related to elevator safety. Such responsibility shall include:

- (1) Responsibility for the review of prints and specifications before new or altered elevators are accepted or approved.
- (2) Pre-job conference on new proposed installations.
- (3) Periodic inspection of new and existing elevator equipment.
- (4) Investigation of elevator accidents, valid complaints, and/or special requests.
- (5) Instituting means of accident prevention for all elevators.
- (6) Training occupational safety inspectors to recognize hazardous elevator conditions that can be detected during their normal inspections.

b. BOILER SECTION

The Boiler Section is responsible for the administration and enforcement of standards and regulations related to boiler safety. Such responsibility shall include:

- (1) Pre-job conferences with boiler installation personnel.
- (2) Responsibility for the inspection of newly installed boilers.
- (3) Periodic inspection of boilers and pressure vessels in places of employment and public buildings.
- (4) Inspection of all major repairs on boilers.
- (5) Investigation of boiler accidents, valid complaints and/or special requests.

7. SPECIAL FUND DIVISION

The Special Fund provides direction, control, financial aid for vocational rehabilitation and supplemental medical benefits for the industrial injured. It also provides compensation when "second injuries" result in a worker's permanent disability.

B. ADVISORY COMMITTEES

In order to provide technical assistance to the Commission and the Division, the legislature has authorized creation of advisory committees (A.R.S. § 23-409). Pursuant to this authorization, the Commission has appointed an Advisory Committee consisting of twelve (12) members, with a reasonably balanced representation of industry, labor, and other persons knowledgeable in safety and health. The Division Director is an ex-officio member of this committee.

The Advisory Committee's primary responsibility is to assist the Commission in drafting and/or recommending adoption of standards and rules. Additionally, the Committee has the responsibility of recommending names to be considered by the Governor as members of the Review Board, pursuant to A.R.S. § 23-422.

Additional advisory committee for assistance with regard to specific issues such as elevator or boiler safety have also been appointed by the Commission along similar structural lines.

CHAPTER III

III. STATE OCCUPATIONAL SAFETY AND HEALTH PROGRAM

Having examined the structure of the organization designed to administer the State Occupational Safety and Health Program, the following is an overview of the system.

A. JURISDICTION

The State Occupational Safety and Health Program includes, by statutory definition, all employers and employees in the State of Arizona, including all employees of the state government and its political subdivisions and self-employed persons, except for employers and employees in household domestic labor, A.R.S. § 23-401.

While jurisdiction is general by definition, A.R.S. § 23-402 restricts the applicability of the jurisdiction of the Industrial Commission by allowing the Arizona Radiation Regulatory Agency, State Mine Inspector, etc. to retain authority for regulation of the working conditions of employees over which they have previously exercised statutory domain.

Aside from the responsibilities of these agencies, however, the Commission has overall responsibility for the working conditions of employees within the State of Arizona. Other agencies have previously been authorized by statute to regulate specific occupations and hazards, and the Commission has been assigned the responsibility of coordinating the activities of the agencies to ensure a comprehensive statewide program, A.R.S. § 23-407(5). To this end, the Commission has drafted and coordinated inter-agency agreements with all agencies who may potentially exercise any administrative or regulatory jurisdiction in order to clearly delineate the responsibility of each agency. (See Appendix B)

B. STANDARDS PROMULGATION

The Arizona Plan is designed to provide standards or rules with respect to every issue that affects the working conditions of employees under the jurisdiction of the Commission. (See Appendix D)

The Commission has adopted Federal Standards, national consensus standards and ICA rules. Other standards and rules are drafted and proposed by the Division on an "as needed" basis, after consultation with the Division's employees, the Advisory Committee, and other persons knowledgeable in the industry for which the standards or rules are required.

The Division will not propose standards or regulations for products used or distributed in interstate commerce which are different from Federal Standards for such products unless such standards are required by compelling local conditions and do not unduly burden interstate commerce, A.R.S. § 23-410.

Such standards and rules are promulgated by the Industrial Commission pursuant to Title 41, Chapter 6, Articles 1 through 6, Arizona Revised Statutes. (See Appendix H.)

C. VARIANCES

The Commission may grant either temporary or permanent variances from standards or regulations, for good cause shown, upon application of an employer pursuant to A.R.S. § 23-411. (See Appendix D/9)

Additionally, the Commission may allow experimental variances in order to permit an employer to participate in an experiment approved by the Commission and designed to demonstrate or validate new or improve techniques to safeguard the health and safety of workers.

In any application for variances from a standard or regulation the employer must meet stringent procedural safeguards in order to insure the health and safety of his employees.

Variations to recordkeeping requirements must be cleared and approved by the Bureau of Labor Statistics, in addition to meeting the requirements of A.R.S. § 23-412.

Any interested party adversely affected by an order of the Commission upon an application for variations may appeal such order to Superior Court pursuant to A.R.S. § 23-413.

D. COMPLIANCE INSPECTION PROCEDURES

In order to assume compliance and to enforce the standards and rules, representatives of the Division are authorized to inspect places of employment, question employees in private, and investigate conditions, practices or matters in connection with employment within the jurisdiction.

Any employer who refuses to allow such inspection, questioning or investigation, at reasonable times, is guilty of a misdemeanor and may be fined or imprisoned. The Commission, or its authorized representative, may either seek an injunction against continued refusal or secure a warrant to effect such inspection.

Compliance inspections are made without warning, and A.R.S. § 23-408 provides civil and criminal penalties for giving advance notice of an intended inspection.

Inspections or investigations are made in response to fatalities and catastrophies, complaints, and priority schedules. Accident statistics along with Planning Guide from the IMIS are used to guide the Division in determining which industries, occupations and hazards to concentrate investigations and inspections.

E. ENFORCEMENT PROCEDURES

If, based upon an inspection or investigation, the Director has reasonable cause to believe that a violation exists, he or his designated representative will issue a citation, pursuant to A.R.S. § 23-415. If the violation is not an imminent danger to the employees involved, a reasonable period of time will be allowed for the abatement of such violation, the employer shall be assessed a civil penalty of up to one thousand dollars for each such violation. If the citation is not corrected within the specific abatement period, the employer is subject to a civil penalty of up to one thousand dollars for each day of continued violation pursuant to A.R.S. § 23-418(E).

If an employer receives a citation for a serious violation and that violation causes death to an employee, a civil penalty of up to five thousand dollars for each such violation shall be assessed the employer pursuant to A.R.S. § 23-418(C).

If the violation involves an imminent danger to employees, the Director, with the approval of the Commission, may seek a temporary restraining order and ultimately a temporary injunction against continued violation, in order to protect the health and safety of the workers, pursuant to A.R.S. § 23-419. A citation for a violation involving imminent danger is considered a serious violation and carries a civil penalty of up to one thousand dollars for each such violation in addition to the injunction.

An employer may be assessed a penalty up to \$10,000 pursuant to A.R.S. § 23-418(A) for each willful or repeated violation. Any person who knowingly makes false statements, representations or certifications in any application, record, report, plan or other document required by the Act is guilty of Class 2 Misdemeanor under A.R.S. § 23-418(H).

A.R.S. § 23-418.01 provides for an additional assessment of \$25,000 where a wilful or repeated violation causes an employee permanent disability or death and the employee is covered by workers' compensation; payment is to the employee or, in the event of death, to the employee's heirs. (See Appendix A)

All citations with penalties in excess of \$200.00 are presented to the Industrial Commissioners for final determination. This is done at their weekly meeting at which time the Commissioners may agree with the formula penalty or increase, decrease or delete the penalty after review of the pertinent facts.

Appendix E contains the Arizona Field Operations Manual which further describes inspection procedures.

F. APPEAL PROCEDURES

The Arizona Program establishes extensive appeal rights for any party aggrieved by actions taken pursuant to the enforcement procedures outlined above.

Initially, the employer may request an informal conference pursuant to A.A.C. R4-13-626. This request must be made prior to the end of the 15-day statutory contest period and cannot serve to extend the contest period.

If the Division and the employer are unable to resolve the employer's concerns through the informal conference, the employer may request a hearing before an Administrative Law Judge of the Commission, pursuant to A.R.S. § 23-420. Such a hearing must be held in accordance with the rules of procedure promulgated by the Commission, and a decision must be rendered by the Administrative Law Judge not later than thirty days after the matter is submitted for decision. (See Appendix F)

Any party aggrieved by a decision of a hearing may request a review by the Review Board pursuant to A.R.S. § 23-423. The Review Board consists of five (5) members, qualified by reason of training, education or experience, who have been appointed by the Governor from a list of names recommended by the Advisory Committee.

The Review Board may affirm, reverse, modify or supplement the decision of the Administrative Law Judge, and must make a decision within thirty days after review has been submitted.

The decision of the Review Board is final unless one of the parties applies, within established time limits, to the Court of Appeals for a writ of certiorari to review the lawfulness of the decision pursuant to A.R.S. § 23-423(I).

G. COMPLIANCE ACTIVITIES - PRIORITIES

Compliance activity will follow a controlled priority procedure to assure the U.S. Department of Labor, Occupational Safety and Health Administration, that the State of Arizona will meet the measure of effectiveness as outlined in the criteria for State Plans. The State has set priorities for compliance inspections as follows:

- Priority # 1. Imminent Danger
- Priority # 2. Fatalities/catastrophies
- Priority # 3. Investigation of Complaints/Referrals
- Priority # 4. Programmed Inspections

See Chapter II of the Arizona Field Operations Manual (Appendix E) for more detailed description of inspections priorities and scheduling.

H. CONSULTATION SECTION

The Consultation Section is responsible for conducting consultations upon request from employers. Such consultations may be conducted at the plant or work site, and will be conducted in the same manner as compliance inspections.

1. Consultant visit shall be conducted along the lines of compliance inspections. Recommendations and advice on noted safety and health violations shall be presented to the employer in writing.

2. Sanctions will not be imposed as the result of information developed during routine consultations. Where imminent danger violations are detected, immediate abatement will be requested by the consultant. If for any reason abatement cannot be realized, the consultation will be terminated immediately and the consultant will proceed in accordance with A.R.S. § 23-419.

3. The consultant program will not take the place of the compliance program, and in no way impair or detract from the enforcement effort; nor will a request for a consultation remove an employer from vulnerability for a compliance inspection either before or after the consultative visit.

4. Arizona is unique in that it provides a Continuous Consultation Program (See Appendix I). At the present time, 60 contractors have enrolled in this program which provides periodic, e.g., monthly visits to construction sites to assist contractors in correcting and/or avoiding workplace hazards.

I. TRAINING SECTION

1. The Training Section has been established as a separate function from the Compliance Section.

2. Responsibilities of the Training Section shall be:

- a. Initial training of newly employed compliance officers.
The Arizona Field Operations Manual and/or Industrial Hygiene Technical Manual shall be the basic texts used in this training.
- b. Conducting supplemental training for compliance personnel covering areas of interest which were not covered in the initial training. These areas will include fundamental training in hazard recognition, standards interpretation and cross training of either Safety or Industrial Hygiene.
- c. Conducting specialized training for compliance officers, not covered in a and b above, in areas of specific occupational safety and health hazards peculiar to specialized occupations and trades located within the boundaries of the State.
- d. Conducting training seminars to acquaint compliance officers with changes in rules and procedures designed to assist the compliance officer in being kept informed and current.

3. The Training Section is also responsible for the maintenance and currency of a safety research and technical library. This library contains, but is not limited to, rules, both current and proposed, of the United States Department of Labor, and Industrial Commission of Arizona, OSHA, ANSI Standards, NSC Data Sheets, NFPA publications, books, pamphlets, and other literature relating to technical data of equipment, machinery, supplies, studies and findings dealing with all aspects of occupational safety and health.

4. The Training Section is responsible for the development of comprehensive statewide training programs for employers and employees. Such programs will emphasize:
 - a. Information programs and seminars to acquaint employers and employees with the Arizona Occupational Safety and Health Act and may be directed to groups composed of employer and employee associations, unions, civic groups, professional societies, etc.

- b. Training for management and supervisory personnel to teach such persons effective techniques for maintaining a safe workplace. These programs will demonstrate how to establish a safety program, policy statements, safety committee organization and function, self inspection and evaluation through Job Instruction Training, Job Safety Analysis, positive controls, communications, education and self enforcement.
 - c. Training for specific industries, designed to assist employers and employees in those industries, in how to detect and correct unsafe conditions and unsafe acts.
 - d. Preparation and dissemination of a newsletter to employers and associations throughout the State containing information on topics of safety and health.
5. The Training Section is also responsible for instructing compliance officers and consultants in the use, care, maintenance and calibration of the varied and miscellaneous equipment necessary for performance.

K. STAFFING AND BUDGET

Arizona's 18(b) Plan is designed to provide adequate staffing and budgeting to meet the requirements set forth in Arizona's Occupational Safety and Health Act of 1972, as amended, which is to assure as far as possible safe and healthful working conditions in workplaces throughout the State, and to preserve our human resources. Personnel specifications along with an organizational chart are shown in Appendix C and the current grant/budget is shown in Appendix G.