A. COORDINATION

1. There will be the fullest possible cooperation and coordination between EPA and OSHA, at all organizational levels, in developing and carrying out training, data and information exchange, technical and professional assistance, referrals of alleged violations, and related matters concerning compliance and law enforcement activity to ensure the health and well-being of the Nation's workforce, the general public, and the environment.

2. By January 1, 1991, and by the beginning of each succeeding fiscal year, EPA and OSHA will develop an annual workplan to identify and define the priorities to be addressed during the year. This workplan will include an identification of specific types of facilities to be jointly addressed during the year.

3. EPA and OSHA will exchange names and phone numbers of appropriate agency headquarters, regional and field personnel, including personnel in OSHA area offices, and in state program offices. All information will be kept up to date by both agencies. Each EPA and OSHA Regional Office will designate a point of contact for carrying out interface activities. Each agency agrees to prepare and distribute to all field personnel a suitable directive outlining a policy concerning the effective implementation of this MOU, and to identify appropriate points of contact. In order to aid in the enforcement and issue-referral process, the agencies will update this information as the need arises and will ensure that managers and field personnel are provided with a copy of this MOU and the relevant directive.

4. Resolution of interagency policy issues concerning this MOU and specific areas of implementation will be coordinated between EPA's Office of Enforcement and OSHA's Directorate of Policy. Resolution of issues concerning inspection and enforcement activity involving both EPA and OSHA jurisdiction also will be coordinated by EPA's Office of Enforcement and OSHA's Directorate of Policy.

B. INSPECTIONS

1. EPA and OSHA may conduct joint inspections as necessary to carry out the legislative purposes of the respective statutory authorities. Such inspections may be in accordance with an annual workplan which is developed by the two agencies and identifies areas for joint initiatives. Such inspections may also be scheduled on an ad hoc basis such as in investigations following accidents or fatalities or injuries to workers resulting from reported activities or situations subject to either EPA OR OSHA jurisdiction.

2. EPA and OSHA inspectors, in the course of conducting separate inspections, may discover situations involving potential violations of the other agency's laws or regulations. In those instances, referrals to the appropriate office will be undertaken as described below.

C. REFERRALS

1. For law enforcement purposes, OSHA and EPA shall develop a regular system to track and manage referrals of potential violations, allegations of violations, or situations requiring inspection, evaluation or followup by either Agency, as appropriate.

2. Although EPA does not conduct inspections for occupational safety, in the course of an EPA inspection, EPA personnel may identify safety concerns within the area of OSHA responsibility or may receive complaints about the safety or health of employees related to their working conditions. In such instances, EPA will bring the matter to the attention of OSHA designated contacts in the Regional Office. EPA inspectors are not to perform the role of OSHA inspectors; however, they will refer worker health and safety issues to OSHA pursuant to the procedures set forth in the MOU and implementing agency directives. In the case of worker complaints, EPA will disclose the name of individuals to OSHA but will not further disclose the name and the identity of the employee. When such instances occur within OSHA State-plan States' jurisdiction, the OSHA Regional Office will refer the matter to the State for appropriate action.

3. OSHA will inform the EPA Regional Administrator or appropriate EPA office of matters which appear to be subject to EPA jurisdiction when these come to their attention during Federal or State safety and health inspections or through worker complaints. Although not exhaustive, the following are examples of matters that would be reported to the EPA:

a. Worker allegations of significant adverse reactions to a chemical or chemical substance which poses a potential hazard to public health or the environment.

b. Accidental, unpermitted, or deliberate releases of chemicals or chemical substances beyond the workplace.

c. Unsafe handling, storage, or use practices involving chemicals, chemical substances, or waste materials in apparent violation of EPA-administered laws.

d. Other readily detectible potential violations of EPA-administered laws, such as by-passing treatment systems.

e. Asbestos dispersal or contamination affecting the public or the environment.

4. EPA shall respond to referrals from OSHA, and OSHA shall respond to referrals from EPA, concerning potential violations of the other agency's requirements, when appropriate, by conducting investigations in a timely manner. Referrals shall be evaluated and appropriate action will be taken.

5. OSHA will work to facilitate referrals of potential violations of EPA regulations to EPA and will encourage the relevant State agencies in those States which operate their own occupational safety and health programs (under a plan approved by OSHA under Section 18 of the OSH Act) also to make such referrals. EPA will work to facilitate referrals to OSHA or OSHA State-plan States of potential violations of occupational health and safety standards or regulations discovered by federal or state environmental inspection activities.

6. EPA and OSHA will conduct periodic meetings, as necessary, to report on the progress of actions taken on the other agency's referrals and to evaluate the effectiveness of the referral system and operating procedures. Both agencies agree to establish a system to monitor the progress of actions taken on referrals.

7. OSHA will encourage State-plan States to respond to referrals from EPA and State agencies concerning potential violations of the States' occupational safety and health standards or regulations by conducting investigations in a timely manner. OSHA will further encourage State-plan States to participate in all training and information-sharing activities established under this MOU.

D. DATA EXCHANGE

EPA and OSHA agree to exchange information relating to complaints, inspections of investigations, violations discovered, imposition of civil monetary penalties, or other legal actions taken to enforce pertinent laws and regulations, and all other information necessary to ensure effective and coordinated law enforcement. This MOU contemplates data exchange through both hard copy and computer data bases, in accordance with procedures to be established in a separate agreement.