

## CHAPTER VIII

### FATALITY/CATASTROPHE INVESTIGATIONS

#### A. General.

1. Policy. All job-related fatalities and catastrophes, however reported, shall be investigated as thoroughly and expeditiously as resources and other priorities permit.

2. Definitions. The following definitions apply for purposes of this chapter:

a. Fatality. An employee death resulting from an employment accident or illness; in general, from an accident or illness caused by or related to a workplace hazard.

b. Catastrophe. The hospitalization of three or more employees resulting from an employment accident or illness; in general, from an accident or illness caused by a workplace hazard.

NOTE: "Accidents involving significant publicity" or any other accident not involving a fatality or a catastrophe, however reported, shall be considered as either a complaint or a referral, depending on the source of the report, and shall be handled according to the directions given in Chapter IX. Accidents discovered from a records review or during the walkaround on a programmed inspection shall be as part of the programmed inspection in accordance with Chapter II, E.2.b.

c. Hospitalization. To be admitted as an inpatient to a hospital or equivalent medical facility for examination or treatment.

d. Reporting. Compliance Manager shall report all job-related fatalities and catastrophes that appear to be within OHSB's jurisdiction as soon as they become aware of them to the Bureau Chief.

3. Fatality/Catastrophe Investigations. Upon initial contact the employer shall be informed that an investigation will be conducted and extensive interviews with witnesses will be necessary. The purpose of an accident investigation shall be explained; namely, to determine:

- a. The cause of the accident.
- b. Whether a violation of OHSB safety or health standards related to the accident occurred.
- c. What effect the standard violation had on the occurrence of the accident.
- d. If OHSB standards should be revised to correct the hazardous working condition that led to the accident.

B. Action.

1. Preinvestigation Activities. It is essential to the proper conduct of a fatality or catastrophe investigation that preparations be carefully made. OHSB will often be the subject of public scrutiny in the conduct of such investigations, and it is imperative that they be complete and professionally competent.
  - a. Compliance Manager. If the fatality or catastrophe appears to require an OHSB investigation (i.e., it is or may be occupationally related to OHSB's jurisdiction is not pre-empted), the Compliance Manager shall ensure that the required IMIS forms are completed and shall report the event to the Bureau Chief.
  - b. Preliminary Investigation. The Compliance Manager, upon notification of an accident involving a fatality or catastrophe, shall gather as much information as is available prior to scheduling an inspection. If possible, this shall be done immediately through discussion with the person reporting the accident. If knowledge of the accident is received through the media or sources other than a representative of the employer, the employer shall be contacted as soon as possible to obtain additional information whenever the supervisor believes that such contact will result in a more effective inspection. Such contact shall be considered advance notice and the procedures for advance notice shall be followed. (See Chapter III, C.2.)
  - c. Investigation Team. If an investigation team composed of experts in specific disciplines is required, the Compliance Manager shall so advise the Bureau Chief. If resources beyond those available within the Office will be required to

compose the team, the Compliance Manager shall determine the composition of the team and shall direct the investigation or delegate someone to serve as authorized principal investigator. The team shall proceed promptly to the scene and shall function as a unit in all phases of the investigation until officially directed to return to normal functions.

- d. Selection of CO. If the Compliance Manager determines that an investigations team effort is not required, a CO with expertise in the particular industry or operation involved in the accident or illness shall be selected and sent to the establishment as soon as possible.
- e. Equipment. Prior to leaving for the accident scene the team or CO, as applicable, shall select the test equipment and the personal protective equipment necessary to support the investigation.
- f. Other Agency. If another Federal or State agency is responsible for or participating in the investigation, the Compliance Manager shall ensure that the CO and/or the team members are fully instructed in OHSB's relationship with the other agency and each agency's areas of responsibility.

2. Investigation Procedures. Every reasonable effort shall be made to determine the cause of the accident. Otherwise, the same general policies and inspection procedures contained in Chapter III are applicable for the investigation of fatalities and catastrophes, except as otherwise provided in this chapter.

- a. Scope. Fatality/Catastrophe investigations shall include a complete inspection of the establishment in addition to the accident investigation in accordance with the following guidelines:
  - (1) In an establishment listed on the High Rate SIC List a comprehensive safety inspection under the guidelines for programmed inspections, or if one of the deletion criteria applies, the procedures given in (4) of this section shall be followed.

NOTE: For any establishment or worksite covered under the Inspection Exemption through Consultation Program, the procedures in (4) of this section normally shall apply unless the Compliance Manager

for good reason decides otherwise.

- (2) In the construction industry, if a substantially complete inspection of the establishment has been conducted within the last quarter, the procedures given in (4) of this section shall be followed.
  - (3) In an industry listed on the Health Inspection Plan the inspection shall cover all areas of the establishment where a potential serious health hazard may exist. Otherwise, the procedures given in (4) of this section shall be forwarded.
  - (4) Except as indicated in B.2.a.(1), in a low-hazard industry the inspection shall generally be limited to the fatality/catastrophe investigation. If, however, the CO believes that the scope of the inspection should be expanded because of information indicating the likelihood of serious hazards in other portions of the plant (e.g., because the CO has observed them prior to the opening conference or during the investigation of the fatality or catastrophe, or because the records review shows that an unusual number or type of injuries has occurred in one time period, area or operation), or because of a formal complaint alleging serious hazards received while conducting the fatality/catastrophe investigation, the supervisor shall be contacted. A decision shall be made on the basis of information available whether the inspection should be extended.
- b. Inspection Strategy When a Complete Inspection is to be Performed. Depending on the circumstances surrounding the accident, it may be necessary to conduct the complete inspection of the workplace, before, concurrent with, or after the accident investigation. Other areas or operations in the establishment may have hazards similar to those that caused the accident; and, if so, they shall be brought to the employer's attention immediately.
- c. Abbreviated Opening Conference. In most cases, investigations of fatalities and catastrophes require that the CO get to the location of the alleged hazard as promptly as possible. Therefore,

the CO shall reduce the time spent in opening conference by limiting remarks to the bare essentials of identification, the purpose of the visit and the request for an escort by employee and employer representatives. The CO shall inform the employer that a records review will be conducted as soon as practicable after inspection of the accident. In addition, a more extensive discussion of other opening conference topics will be conducted at the closing conference.

- d. Criminal. Section 50-9-24J of the Act provides criminal penalties for an employer who is convicted of having willfully violated the Act when that violation caused the death of an employee. In an investigation of this type, therefore, the nature of the evidence available is of paramount importance. There shall be close liaison between the CO/team leader, the Compliance Manager, the Bureau Chief and the Office of General Counsel in any finding which might involve a violation of Section 50-9-24J of the Act.

C. Special Situations.

- 1. Preemption. There may be situations where it is not clear whether OHSB's authority to investigate fatalities or catastrophes has been pre-empted. In such cases the guidelines given in Chapter III, D.6.a. shall be observed with the following special considerations:

- a. General. If it is reasonably certain that OHSB coverage has not been pre-empted, the Compliance Manager shall start the investigation at once and not let jurisdictional problems interfere with either notification or investigation.

- (1) If the Compliance Manager cannot resolve a pre-emption problem, all pertinent information shall be relayed to the Office of General Counsel, along with additional facts as they become available. A clear interpretation will be provided as soon as possible.

- (2) Where prior determinations have been made that OHSB authority has been pre-empted, such as coal mine accidents, no investigation shall be conducted.

- (3) If OHSB jurisdiction has been pre-empted only partially, the investigation shall be

conducted as usual; and all apparent violations shall be noted, including those for which jurisdiction has been pre-empted. A referral shall be made to the local office of the appropriate agency for such violations as soon as practicable.

- b. Agency Cooperation. If other Federal or State agencies will be involved and are on site, the CO and/or the investigative team shall work with the other agencies as closely as possible to:
  - (1) Obtain all available information concerning the fatality or catastrophe.
  - (2) Assist each other in inspection of the accident site.
- 2. Use of Expert Assistance. The decision as to the need for involvement of specialists or experts to assist in the conduct of the investigation shall be made as soon as possible after the Team/CO has arrived on site. That decision shall be made by the Compliance Manager in consultation with the Bureau Chief upon the recommendation of the Team Leader/CO.
- 3. Rescue Operations. OHSB has no authority to direct rescue operations--this is the responsibility of the employer and/or local political subdivisions or State Agencies. OHSB does have the authority to monitor and inspect the working conditions of covered employees engaged in rescue operations to make certain that all necessary procedures are being taken to protect the lives of the rescuers.
  - a. Consultation. OHSB shall be available for consultation on the safest or most effective way to conduct rescue operations. This information, based on technical knowledge of competent OHSB personnel at the scene, shall be given freely, if requested.
  - b. Rescue Operations. If the CO is aware that the employer intends to use some rescue procedure that may be in violation of a standard or the general duty clause and the CO believes other, less hazardous procedures are more desirable, the employer shall be advised of this belief. The employer shall be encouraged to use the personnel and facilities of local fire and police departments for their specialized knowledge and training in rescue operations.

- c. Application of Standards. If rescue work is performed by the employer, OHSB standards are applicable. The employer is required to take such steps as are necessary to eliminate, if at all possible, or to minimize recognized hazards likely to cause death or serious physical considering the urgency in a particular rescue operation.
  - d. Emergency Situations. Emergencies created by fatalities or catastrophes generally necessitate immediate rescue work, fire fighting, etc.; and any loss of time may increase injuries and/or fatalities. Therefore, when non-standard equipment; e.g., tractors, bulldozers, etc., without rollover protection, is available for use in an emergency situation, OHSB shall permit its use without citing the employer rather than cause a delay waiting for equipment which meets OHSB standards. The use of such equipment by private employers shall be limited to the actual emergency situation of fighting fire, rescue work, etc. Use in cleanup or reconstruction work shall warrant the issuance of citations when appropriate.
- 4. Public Information Policy. The OHSB public information policy regarding response to fatalities and catastrophes is to follow established Environment Department Policies & Procedures. Media inquiries shall be directed to the Department's Public Information Officer.
  - 5. Reports. At the conclusion of the investigation, the CO shall, in addition to the usual case file, prepare a written report documenting the fatality or catastrophe. This report shall include a discussion of all facts and statements relevant to the fatality or catastrophe and outlining the recommendations of the CO on whether citations are appropriate. In addition, the CO will discuss what changes in practice which are not covered by standards or the General Duty Clause should be implemented by the employer to prevent a recurrence of such a fatality.