

CHAPTER VIII

FATALITY/CATASTROPHE INVESTIGATIONS

A. General.

1. Policy. All job-related fatalities and catastrophes, however reported, shall be promptly reported to the administrator through the branch manager and may be investigated at the discretion of the branch manager after consulting the administrator.
2. Definitions. The following definitions apply for purposes of this chapter.
 - a. Fatality. An employee death resulting from an employment-related accident or illness.
 - b. Catastrophe. The hospitalization of three or more employees resulting from an employment-related accident or illness.
 - c. Hospitalization. To be admitted as an inpatient to a hospital or equivalent medical facility for examination or treatment.
 - d. Reporting. Branch managers shall report multiple fatalities and catastrophes directly and immediately to the administrator who shall inform the director in accordance with the instructions given in C.1)

NOTE: For purposes of the reporting requirement of this paragraph, "multiple fatalities and catastrophes" shall include:

- (1) Fatalities totaling two or more;
 - (2) All catastrophes;
 - (3) Single fatalities involving or likely to involve significant national or local publicity; or
 - (4) Single fatalities involving extensive property damage.
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 or not a violation of Hawaii safety or health standards related to the accident occurred;
 - c. What effect the standard violation had on the occurrence of the accident; and
 - d. If Hawaii OSH 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. DOSH may be the subject of public scrutiny in the conduct of these investigations, and it is imperative that they be complete and of professional quality.
 - a. Branch Manager. If the fatality or catastrophe appears to require a DOSH investigation, (i.e., it is or may be occupationally related and there are no questions of jurisdiction) the branch manager shall ensure that the required IMIS forms are completed and shall report the event to the administrator who will give all pertinent information to the director, when required by C.1, as soon as it is verified that the fatality/catastrophe has occurred.
 - b. Preliminary Investigation. The supervisor, upon notification of an accident involving a fatality or catastrophe, shall gather as much information as is available prior to scheduling an investigation. 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 this contact will result in a more effective investigation. This 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 branch manager shall so advise the administrator. If resources beyond those available within the division will be required to compose the team, the administrator shall determine representation on the team and shall direct the investigation or delegate someone to serve as team leader. The team, as directed by the administrator or team leader, 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 Compliance Officer. If the administrator and the branch manager determine that an investigation team effort is not required, a compliance officer with expertise in the particular industry or operation involved in the accident or illness shall be selected by the branch manager and sent to the establishment as soon as possible.
 - e. Equipment. Prior to leaving for the accident scene the team or compliance officer, as applicable, shall select the test equipment and the personal protective equipment necessary to support the investigation.

NOTE: Emergency testing equipment or special accident investigation instruments or protective clothing need not be set aside in the division for emergency or accident investigation use only. All equipment shall be available for regular use at any time provided it is available if needed for fatality/catastrophe investigations.
 - f. Other Agency. If another Federal or State agency is responsible for or participating in the investigation, the administrator and the branch manager shall ensure that the compliance officer or the team members are fully instructed in the relationship and the areas of responsibility.

2. Investigation Procedures. 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 investigation of the establishment in addition to the accident investigation in accordance with the following guidelines.
- (1) In a high rate establishment (one listed on the establishment list), if one of the deletion criteria given in Chapter II, E.2.b.(1)(f) applies, the procedures given in (4) of this section shall be followed.
 - (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 include a complete investigation.
 - (4) Generally, in low-hazard establishments or industries, the inspection shall be limited to the fatality/catastrophe investigation. If, however, the compliance officer 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 compliance officer has observed them prior to the opening conference or during the investigation of the fatality or catastrophe, 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 or not 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 compliance officer get to the location of the alleged hazard as promptly as possible. Therefore, the compliance officer shall reduce the time spent in the 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 compliance office shall inform the employer that a more extensive discussion will be conducted at the closing conference.
- d. Families of Victims. Family members of employees involved in fatal occupational accidents or illnesses shall be contacted at an early point in the investigation, given an opportunity to discuss the circumstances of the accident or illness, and provided timely and accurate information at all stages of the investigation. (See guideline on Incorporating Family of Victims in Fatality Investigation.)
- e. Criminal. Section 396-10(g) of the Law provides criminal penalties for an employer who is convicted of having willfully violated the Law 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 should be close liaison between the compliance officer or team leader, the branch manager, the administrator, and the attorney general in any finding, which might involve a violation of §396-10(g) of the Law.

C. Reports.

1. Notification of the Director.

- a. Major Events. Multiple fatalities and catastrophes required to be reported or of which the director should have knowledge shall be reported by the administrator, using the procedures set forth in this section.
- b. Pertinent Information. It is important that the director receive, as soon as possible, all pertinent information that can be obtained from newspapers or other sources. It is not necessary to have available all the pertinent facts for the initial telephone calls. As more facts become available, they can be relayed to the director's office in subsequent calls.
- c. Telephone. The telephone reporting number is 586-8844.
- d. Information to Be Provided. First reports and subsequent followup calls shall provide as much of this information as possible:
 - (1) Name of company, location, and type of business;
 - (2) Time of accident;
 - (3) Type of accident (fire, explosion, building collapse, etc.);
 - (4) Number of fatalities;
 - (5) Number of persons hospitalized;
 - (6) Number of persons unaccounted for;
 - (7) When DOSH personnel are expected to arrive at the scene; and
 - (8) Identity of the person who is in charge at scene (if immediately known).

2. Assistance or Call-back. In the event department assistance or call back is required, the reporting official shall so indicate in the verbal report. Department personnel will take appropriate action.

D. Special Situations.

1. Jurisdiction. There may be situations where it is not clear that the circumstances fall within DOSH's jurisdiction.
 - a. General. If it is reasonably certain that DOSH has jurisdiction, the branch manager shall start the investigation at once and not let potential jurisdictional problems interfere with either notification or investigation.

- (1) If there appears to be a jurisdictional problem, this information shall be relayed to the department office along with additional facts as they become available. A clear interpretation will be provided as soon as possible.
- (2) Reserved.
- b. Agency Cooperation. If Federal agencies will be involved and are on site, the compliance officer or the investigative team shall cooperate with the agencies to:
- (1) Obtain all available information concerning the fatality or catastrophe; and
- (2) Assist each other in inspection of the accident site.
2. Use of Expert Assistance. The decision as to the need for experts to assist in the conduct of the investigation shall be made as soon as possible after the team or compliance officer has arrived on site. That decision shall be made by the branch manager in consultation with the administrator upon the recommendation of the team leader or compliance officer.
3. Rescue Operations. DOSH has no authority to direct rescue operations; this is the responsibility of the employer or of local or State agencies. DOSH 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. Conditional on available on-scene experience and expertise, DOSH shall be available for consultation on the safest or most effective way to conduct rescue operations.
- b. Rescue Operations. If the compliance officer 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 compliance officer 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, equipment, 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, Hawaii OSH 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 harm, considering the urgency in a particular rescue operation.
- d. Emergency Situations. Emergencies created by fatalities or catastrophes generally necessitate immediate rescue work, firefighting, etc., and any loss of time may increase injuries or fatalities. Therefore, when nonstandard equipment (e.g., tractors, bulldozers, etc.) without rollover protection, is available and used for rescue purposes, no citation shall be issued. The use of this 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 DOSH public information policy regarding response to fatalities and catastrophes is to explain DOSH presence to the news media. It is not to

provide a continuing flow of facts, nor to issue periodic updates on the progress of the investigation.

- a. Administrator. The administrator or his designee shall normally handle responses to media inquiries.
- b. Reserved.
- c. Reserved.

UNOFFICIAL COPY