

CHAPTER 20

ACCIDENT AND EMERGENCY RESPONSE INVESTIGATIONS

SECTION 20.1 - PURPOSE

The Office of Hazardous Materials Safety (OHMS) Field Operations performs accident and emergency response functions as part of its duties and responsibilities in PHMSA and the Department. The type and level of that response for these activities and the program expectations are defined in this chapter.

SECTION 20.2 - DEFINITIONS

- **Accident or Incident-** Involving a transportation related event, mishap or disaster resulting in the failure of a package containing hazardous materials (HM), release of HM, or a failure of a transportation or safety system that results in personal injury, property damage, environmental damage or that warrants evacuation of the public or that affects a major transportation system.
- **Emergency-** A crisis or matter of urgency requiring immediate or expedited treatment, handling, and or oversight by field investigative staff. The declaration of an “emergency” is determined by supervisory personnel or higher.
- **Response-** The reply and or reaction to an accident or emergency. Varying in type and level of reply, an investigation response ranges from a telephone call or email to an on-scene site visit. Enforcement Divisional participation in a “response” capacity will generally yield no more than assistance to the entity having primary jurisdiction. This duty may escalate or rise to an investigation activity. This increase in duty and responsibility will be determined by a field operations’ supervisor.
- **Investigation-** A gathering and examination of facts and evidence, by field investigative staff, that resulted from an event or series of events causing or indirectly causing an accident, incident or non-compliance activity for a determination of root cause of failure. Varying in level and type, a field investigation ranges from a phone call or online query to an on-scene site visit with follow up fact finding and inspections at other system related activities and locations. All field investigations yield a detailed report of event and activity summaries, findings and recommendation (if applicable). Some investigations warrant a complete and comprehensive failure analysis of hard evidence (eg. cylinder or packaging).
- **Situation Report (SITREP)-** When performing an investigative or response activity as defined in this document, Investigators will prepare, record and communicate (via email or phone) a report (using the form in appendix) of the conditions and state of affairs for the activity to their supervisor.

- The report will be updated as soon as practicable as events and information change or become available and initially contain a brief information transmission of the basic information and photographs (if available) surrounding the event (When, What, Where, Who, How, Next steps). Follow on background information may be necessary. SITREPs will accompany all corresponding investigation reports.

SECTION 20.3 – AGENCY RESPONSE CONSIDERATIONS

Based on statutory mission and responsibilities and resources, the Enforcement Division is not currently a “first responder” operation. Field deployment of investigative resources for activity defined in this document is dependent on statutory jurisdiction, DOT modal memorandum of agreement, cost and benefit, scope and effect of event, and resource availability.

- Statutory Jurisdiction – All types of hazardous materials by all aircraft, motor vehicle, rail, and vessel modes of transport except bulk HM by vessel.
- Modal Specific Activities – accidents and incidents involving dedicated modal uses of cargo tank and freight motor vehicles and motor vehicle carriers, Railroad tank and freight cars and rail carriers, and aircraft unit load devices and air carriers.
- DOT Modal Memo of Agreement (8/2005)
 - OHMS Field Operations has primary jurisdiction over the manufacture, recondition, rebuild, requalification and repair of all non-bulk and intermediate bulk DOT specification and UN Standard packaging and cylinders and all activities under DOT-PHMSA issued special permits.
 - OHMS does not have primary jurisdiction over dedicated modal uses of cargo tank and freight motor vehicles, Railroad tank and freight cars, and aircraft unit load devices (ULD). Delegations of primary transportation jurisdiction are:
 - FMCSA – Cargo and freight motor vehicles and motor vehicle carriers
 - FAA – ULD’s and air carriers.
 - FRSA – Railroad tank and freight cars and rail carriers
 - USCG – Marine Vessel carriers
- Cost and Benefit – In a significant effort to maximize the outcome and impact of the program’s resources, the cost of the resource allocation for response and investigation activities is determined against the overall benefit of the outcome and return on investment.
- Scope and Effect of Event – the breadth and extent of the event is considered in the decision to commit response or investigative resources. Larger events within jurisdiction that affect broad areas of industry or the public at large demands OHMS action.
- Resource Availability – Staff and funding sources play the largest role in the determination to engage field participation. OHMS possess the smallest investigative staff and operating budget within the Department’s modal administrations.

- Resource leveraging is tool widely used in OHMS to multiply its mission efforts and impact.

OHMS Field Operations will not routinely respond to aviation, marine, rail and highway (modal specific) accidents and incident response operations (including cargo tank roll-overs and railroad derailments) based on significant efforts to maximize resources, minimize or avoid duplication of efforts, and recognize the agreed upon jurisdictional boundaries within DOT.

However, OHMS will deploy its resources when called upon for assistance by the applicable mode or when the modal administration is unable to respond. The communication network among the HM DOT-modal program managers is very effective. It is this network that facilitates the inter agency coordination to request additional assistance. OHMS may deploy investigative or response resources without a modal request, if the activity or potential outcome of that activity supports other OHMS activities. Such decisions must also be approved by OHMS Field Operations leadership.

SECTION 20.4 – PHMSA ENFORCEMENT PRIMARY JURISDICTIONS

OHMS exercises primary inspection jurisdiction over the manufacture, recondition, rebuild, requalification and repair of all non-bulk and intermediate bulk DOT specification and UN Standard packaging and cylinders and activities under DOT-PHMSA issued special permit and approvals.

Within its jurisdiction and in nearly all circumstances, OHMS will deploy investigative resources to respond and investigate all significant accident and incident events that meet the serious incident criteria of section 171.15 including catastrophic failures of a DOT specification or Special Permit cylinders.

For moderate and less serious accident and incident events within its primary jurisdictional activities, OHMS will deploy its resources on a case-by-case basis, determined by field leadership based on factors that include prior compliance history, resource availability, cost and benefit.

Areas of consideration that may require OHMS resource involvement include domestic accidents involving serious injury, fatalities, catastrophic failures of DOT and select non-DOT pressure vessels (not storage vessels), Intermediate Bulk Containers (IBC) and United Nations (UN) standard non-bulk and intermediate bulk packaging.

SECTION 20.5 – OHMS FIELD OPERATIONS RESPONSE

OHMS recognizes that during emergency response operations the focus is on responding to the ongoing event, mitigating the hazards and ensuring safety, and not necessarily evidence gathering. There will be ample opportunity to gather evidence and conduct an investigation if deemed necessary upon completion of the emergency response activities.

In determining the level of involvement, OHMS Enforcement Division will utilize information gathered from a variety of sources including but not limited to news broadcasts, telephone inquiries, including reports and requests received from Federal, state and local partners. By capitalizing on these partnerships OHMS can quickly gather information regarding ongoing events.

When deployed in an investigative capacity, the focus of OHMS involvement shall be to ensure and facilitate the safe transportation of hazardous materials in commerce and determine root cause of failure if warranted. This may include serving as an information conduit for the emergency processing of permits.

As noted in Title 49 Code of Federal Regulations (CFR) §107.117, such requests are initially submitted to the appropriate modal administration who in turn shall notify the Associate Administrator with their evaluation and recommendation of the request.

Field Operations will deploy resources to investigate any accident or incident event when there is reason to believe that DOT and select non-DOT pressure vessels (not storage vessels), IBC's and UN standard non-bulk packaging directly or indirectly caused and / or contributed to the failure or incident event. In such instances, PHMSA may conduct a comprehensive investigation to determine the root cause and failure mode of the event.

When OHMS commits to the deployment of its resources for on-site investigation, the program will:

- Aggressively pursue a determination as to the scope and breadth of the event and the affected,
- Generate and communicate initial and updated SITREPs for the activity (use form attached),
- Conduct failure analysis to determine root cause,
- Perform a thorough compliance determination considering the entire transportation stream,
- Determine compliance and best practices,
- Coordinate efforts and progress with other applicable programs, agencies and modal administrations,
- Produce a final investigation report that includes:
 - all corresponding SITREPs for the activity
 - findings, summaries, evidence, interviews, photographs, etc.
 - identification of best practices (if applicable)
 - enforcement recommendations (if applicable)
- Communicate the report, findings, and recommendations to the appropriate program office, agency or mode.
- Field Operations will also refer applicable enforcement actions or sanctions as appropriate.

NOTE: In addition to the above, all investigation reports, that may contain accompanying sitreps, recommendations, interviews, evidence, and photographs, including those documenting violations noted, will be processed by current Enforcement Division operating procedures and protocols for report filing.

SECTION 20.6 – NATIONAL TRANSPORTATION FAILURES AND DISASTER RESPONSE

If available resources permit and approved by OHMS leadership, any Field Operation actions in response to an incident of national significance will be in coordination with or in support of a request of an agency having jurisdiction in emergency management (eg. Federal Emergency Management Agency, Crisis Management Center or Emergency Support Function operations).

These events include, but are not limited to natural and man-made emergencies, transportation support following infrastructure failures, natural disasters, and acts of terrorism and other such incidents of national significance. In such event, OHMS investigators will primarily serve as an information conduit for the Department through the PHMSA Emergency Coordinator (EC) at the Crisis Management Center (CMC) or when the EC is not available, directly to the CMC Senior Watch Officer (SWO) at (202) 366-1863. The type of response conducted by OHMS field staff, telephonic and / or on-scene, will be in large part determined by the nature and gravity of the event.

For events that do not include fatalities and / or involve hazardous materials, it may be appropriate to rely on information obtained from outside sources along with our Federal, state and local partners. However, significant events involving national transportation failures and/or large scale disasters may require on-scene presence by OHMS staff.

SECTION 20.7 – OHMS FIELD OPERATIONS GUIDING RESPONSE GOALS

1. To ensure our personnel are properly equipped and trained to perform their jobs safely.
2. To ensure hazardous materials are transported safely.
3. To help, not hinder accident, emergency response and disaster relief efforts.
4. To provide technical support where needed.
5. To serve as an active participant in identifying solutions and providing recommendations where appropriate.
6. To stay connected via cellular phone or email with PHH leadership.
7. To serve as a conduit of information for PHH and the CMC (SITREPS).
8. To facilitate regulatory relief to expedite the transportation of hazardous materials when necessary.
9. To determine the level of compliance with the Hazardous Materials Regulations (HMR), Permits and Competent Authority for any hazardous materials that were involved in the event, including but not limited to packaging, blocking and bracing, stowage and segregation, and hazard communication.

10. To determine if non-compliance with the HMR directly or indirectly caused and/or contributed to the extent and gravity of the event.
11. To determine, if warranted as the lead or as requested, the root cause of failure.
12. To determine, record, and report best practices of the operation or related operational systems.
13. To provide an after action event, investigation report and, or enforcement recommendations where appropriate.
14. To determine and report next steps of OHMS Field Operations actions (ie. further inspection, follow up, or referral).