

DIRECTIVE NUMBER: IOSH Instruction CPL 2.94

SUBJECT: IOSH Response to Significant Events of
Potentially Catastrophic Consequences
September 29, 1997

- A. Purpose. It is IOSH policy to respond as quickly as possible to significant events which may affect the health and/or safety of employees.
1. For purposes of this instruction, a “significant event” is defined as an occupationally related incident including but not limited to:
 - multiple fatalities
 - extensive injuries
 - massive toxic exposures
 - extensive property damage
 - or one which represents potential worker injury and generates widespread media interest
 2. Response in the event of a natural disaster is not addressed in this instruction.
- B. Scope. The instruction applies IOSH wide.
- C. Action. IOSH Administration shall ensure that the policies and procedures explained in this instruction are implemented and utilized at the time of a significant event.
- D. Background.
1. This instruction provides an alternative to OSHA Instruction CPL 2.94 of July 22, 1991.
 2. Significant events of potentially catastrophic consequences may also be addressed by elements of the National Contingency Plan (NCP) (40 CFR 300), the basic rules for Federal emergency planning, preparation and coordination. The NCP (Section 300.120) provides for an On-Scene Coordinator (OSC) who is responsible for directing response efforts and coordinating all other Federal efforts at the emergency scene. The EPA usually provides the OSC for emergencies on land while the Coast Guard provides the OSC for emergencies on water. The NCP also establishes the National Response Team (NRT), the Regional Response Teams (RRT) and charges these groups with responsibility for emergency planning, preparation and response. The NCP names Federal OSHA as a member of the NRT and states that Federal OSHA “on request” will provide advice and technical assistance to NRT/RRT agencies during emergencies. (See Section 300.175.) Federal OSHA’s technical assistance may include review of

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site safety plans and work practices, assistance with exposure monitoring, providing MSDS's, giving advise on personal protective equipment, and help with compliance questions. The NCP gives Federal OSHA a limited role during catastrophic events and it has been Federal OSHA's policy not to engage in activities that would have the effect of impeding the emergency response.

3. However, IOSH's authority is not governed by the NCP, NRT and RRT. The IOSH Act requires that IOSH respond to catastrophic events. IOSH's role must be an active and forceful protector of employee safety and health during the emergency response, clean-up, removal, storage and investigation phases of these incidents. Communication and coordination among Federal, State and Local agencies during their response to catastrophic events is crucial.
- E. Procedures. In the investigation of significant events, IOSH policies shall be followed.
1. Preparation for Investigations of Significant Events.
 - a. Training.
 - (1) All IOSH compliance officers shall be trained in the basic elements of this instruction.
 - (2) Individuals with specialized skills or experience may expedite the investigative process. The training records, education and work history of potential team members need to be considered in the inspection team selection process.
 - b. Resources.
 - (1) The IOSH Administrator will maintain the full complement of equipment necessary to investigate the hazards commonly found in the workplace. A contingency plan is in place to obtain specialized technical equipment.
 - (2) The IOSH Administrator shall ensure that adequate personal protective equipment for CSHO's is available.
 - (a) Each CSHO shall be trained in the proper care, use and limitations of the personal protective equipment (PPE).
 - (b) If additional PPE is necessary, it must be obtained prior to exposure. Under no circumstances shall a CSHO be unprotected from any hazard encountered during the course of the investigation.

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- E. 1. b. (3) The IOSH Administrator/Legal Staff shall determine the availability of qualified consultants for the various types of anticipated events. A listing of consultants and their specialties shall be available. Preliminary contact with these consultants may include discussion of items such as expertise, cost, availability, confidentiality, etc.
 - (4) A listing of testing laboratories shall be identified.
 - (5) Utilization of the expertise of federal and/or state agencies should be coordinated through the IOSH Administrator.
 - (6) Each investigation has only limited resources that can be devoted to it. The expenditure of continued effort at each step of the investigation must be weighed by the IOSH Administrator/LSO/ITL against the anticipated results.
2. Initial Response/Verification.
- a. IOSH's policy is to respond to significant events as quickly as possible; therefore, off duty telephone numbers shall be maintained.
 - b. Additionally, because equipment and supplies which may be necessary or an accident investigation are available through the Office, the IOSH Administrator shall ensure ready access to the Office during non-business hours.
 - c. Notices of significant events can be received from many sources. Regardless of the source of the notices, certain actions must be taken to ensure that an inspection team will be adequately prepared.
 - (1) If the initial report of an incident is received, the person receiving the report shall obtain all the information required to complete the OSHA-36, Fatality/Catastrophe Report, if appropriate. In addition to the information contained in the OSHA-36, the person receiving the report shall attempt to obtain the following information:
 - (a) Current status of the situation (i.e., is a continuing hazard present);
 - (b) What the company is doing to protect employees still on the site;
 - (c) Area or location of incident in relation to neighboring plants, storage areas, or residential areas; and

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- E. 2. c. (1) (d) Other governmental agencies on the site including the identification of the “lead” agency (i.e., EPA, fire department, etc.).
- (2) If the IOSH Administrator/LSO feels that additional information is necessary to ascertain the occurrence of a significant event, the employer shall be contacted. Contacting the employer in this situation may constitute advance notice.
- (3) If the IOSH Administrator/LSO is unable to obtain all the information needed, other sources may be contacted (i.e., fire departments, hospitals, television or radio stations, newspapers, other governmental agencies, etc.).
- (4) Immediately upon receipt of information from any reliable source that a significant event has occurred, the IOSH Administrator/LSO shall attempt to determine IOSH authority. If it is determined at any time during the course of the inspection that IOSH has no authority, the inspection shall be terminated. If it is determined that IOSH’s authority may be limited by another agency’s authority, the IOSH inspection may be interrupted and/or terminated.
- (5) The IOSH Administrator/LSO shall attempt to establish the scope of the inspection (i.e., partial, comprehensive, etc.).
- (6) The IOSH Administrator/LSO shall dispatch a CSHO(s) to the site to obtain information and establish an agency presence.
 - (a) The dispatched CSHO shall have all the necessary PPE.
 - (b) If additional PPE is necessary it must be obtained prior to exposure. Under no circumstances shall a CSHO be unprotected from any hazard encountered during the course of an investigation.
 - (c) The CSHO(s) primary function is to gather preliminary information regarding the incident which will be used to assess further IOSH involvement.
- (7) The IOSH Administrator/LSO shall notify the Labor Commissioner, Agency Director and Federal OSHA Regional Administrator of the occurrence of any catastrophic event and report as much of the following information as possible:
 - (a) Location of accident including county and Zip Code;

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- (b) Company or companies involved and type of business;
- (c) Type of incident (i.e., structural collapse, chemical release, etc.);
- (d) Date and time of event;
- (e) Number of persons killed, injured, or unaccounted for;
- (f) Status of rescue operations;
- (g) Whether an IOSH representative is on-site, or enroute;
- (h) Person(s)/agency(ies) in control of site;
- (i) Other organizations/agencies on site;
- (j) Telephone numbers of all parties on site;
- (k) Other significant information and sources of such information.

E. 3. Initial On-Site Investigation Activities.

- a. Upon arrival at the incident scene, the IOSH representative(s) (CSHO(s)) dispatched by the IOSH Administrator/LSO shall establish contact with the employer and the On Scene Incident Commander as soon as possible. For incidents subject to the NCP, the IOSH representative(s) shall also contact the Federal OSHA Representative. Initial on-site investigation activities may be delayed only if the authorized employer representative is engaged in rescue or emergency response activity.
- b. The IOSH representative(s) shall conduct an opening conference per the FIRM.
- c. The IOSH representative(s) first on the scene shall use any means available (i.e., video camera, audio tape recorder, cameras, note taking, outside consultants, etc.) to document characteristics of the event. Continued documentation is recommended throughout the initial stages of the investigation since conditions can change rapidly in such emergency situations.
- d. If terrorist or chemical activity is suspected, the IOSH Administrator/LSO shall make every effort to ensure the security of IOSH personnel.

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4. IOSH's Role in Ensuring Protection of Employees During the Emergency Response.
 - a. When the CSHO observes a hazard during the Emergency Response these procedures shall be followed:
 - (1) The CSHO shall report the hazard(s) to the employee and/or their supervisor and ask for corrective action.
 - (2) The CSHO shall also report the hazard(s) to the proper authority within the Incident Command System or Senior Management Official, if no Incident Command System is in place.
 - (3) Documentation of the hazard exposure shall not interfere with the Emergency Response. Citations will not be issued for any rescue activity by employees except when the employer has specifically designated an employee with responsibility to perform or assist in a rescue operation, or when the employees have duties directly related to workplace processes or operations where the possibility of life-threatening accidents are foreseeable.
 - (4) No CSHO shall take part in any Emergency Response. Procedures in Section E.6. of this instruction shall be followed.
 - (5) The incident shall be noted by the CSHO and reported to the IOSH Administrator and Investigation Team Leader (ITL).
 - b. Employee exposure to any hazard(s) involving Right To Know, Emergency Action/Fire Prevention, and Hazardous Waste Operations/Emergency Response shall also be documented.
 - (1) Written Programs shall be reviewed.
 - (2) Employees at all levels of program involvement shall be interviewed.
 - (3) Responses by Outside Agencies mandated to respond (i.e., State and Local governmental agencies such as local fire departments, Highway Patrol, police departments, etc.) only need to be evaluated when the CSHO observes a hazard(s) to their employee(s) (newsreels or other videos can constitute CSHO observation), referrals, or an employee complaint is filed with IOSH. These inspections will be scheduled by the IOSH Administrator.
 - (a) See E.4.a.(3) of this instruction.

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(b) - Reserved -

5. Coordination of IOSH Activities with Other On-Site Authorities.

- a. Response of IOSH personnel to emergency situations requires careful consideration due to the following factors:
 - (1) Federal, State and/or Local authorities have legislated roles in providing emergency response to ensure protection of lives and property.
 - (2) The importance of IOSH's coordination and cooperation with these authorities during the initial phases of IOSH's on-site activity cannot be overemphasized.
 - (3) IOSH may utilize reciprocal support from Local and/or State and/or Federal authorities to eliminate duplication of efforts.
- b. For significant events covered by the NCP, other governmental agencies; namely, Environmental Protection Agency (EPA), Nuclear Regulatory Commission (NRC), U.S. Army Corps of Engineers, or the Coast Guard may exercise management and control in emergency response and hazardous waste site activities.

Where necessary, the IOSH Administrator/LSO shall consult with the Regional OSHA Office to determine if the spill, accident, or emergency situation in question falls within the specific authority of another Federal, State or Local Government Agency.

- c. IOSH personnel are not specifically trained or experienced in directing emergency response or serving as the Incident Commander and, therefore, will not assume those roles. However:
 - (1) All on-site inspection duties during this phase of the investigation must be performed by IOSH personnel who have successfully completed all IOSH required training courses or their equivalent as outlined in 1910.120(q).
 - (2) If no trained compliance officers are available, the IOSH Administrator/LSO shall obtain personnel with the appropriate training (i.e., outside contractors, etc.).

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- E. 6. CSHO Protection During Initial Phase of the Investigation.
- a. The paramount concern addressed by this section is the protection of compliance officers. No enforcement action, or accident investigation activity is so important as to place the life or health of the compliance officer in danger.
 - b. During the initial phases of IOSH's response to a significant event, IOSH personnel may encounter hazardous conditions which present a significant risk to their safety and health. Among the potential hazards that may be encountered are: unknown levels of highly toxic atmospheric and surface contamination, including carcinogens, explosive or corrosive atmospheres; confined spaces; and the potential for spontaneous generation of atmospheres immediately dangerous to life and health, etc.
 - c. The CSHO shall ensure that the following precautions are taken:
 - (1) Prior to entering a potentially hazardous area at the incident site, determine if any of the following prohibited entry categories may be encountered:
 - (a) Explosive substances are present or flammable substances are present in concentrations exceeding 10% of the lower explosive level (LEL).
 - (b) Site is on fire.
 - (c) Potentially hazardous unidentified substances are present, preventing an adequate determination of precautions for the safety or health of the CSHO.
 - (d) Hazardous equipment and/or mechanical devices are operating and cannot be shut off and locked out, or pipelines cannot be isolated and/or shut off.
 - (e) Adequate personal protective equipment (PPE) may not exist for protection against the contaminant or biohazard present.
 - (f) Ionizing or non-ionizing radiation is present at levels which would result in exposures of IOSH personnel exceeding permissible exposure levels.
 - (h) Presence of, or high probability of rapid generation of, atmospheres immediately dangerous to life and health.

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- (i) Structure is in danger of collapse or cave-in.
 - (j) Decontamination equipment is not available.
 - (2) If any of the above conditions exist or is likely to occur during the course of an inspection, the CSHO shall refer the particulars of the situation to the IOSH Administrator/LSO. Entry into the hazardous area is prohibited.
 - (3) No compliance officers shall enter any area where Level A protection is requirement.
- 7. The CSHO shall report to the IOSH Administrator/LSO, at minimum, daily during the initial investigation phase.
- 8. Team Inspection Procedures/Office Contingencies.
 - a. As determined by the scope and magnitude of the event or upon the recommendation of the initial responding CSHO, if may be necessary for the CSHO, IOSH Administrator/LSO and Legal Staff to select and inspection team leader and assemble an inspection team. Members of an inspection team shall be selected based upon their experience and abilities. The team selection committee shall take into consideration, as a minimum, the following when selecting an inspection team:
 - (1) It may be necessary to divide the inspection team into subgroups which address certain aspects of the investigation.
 - (a) For example, one group may investigate emergency response activity, a second group may address system safety while a third group addresses circumstances pertaining to the initial accident.
 - (b) Each group may have a designated leader to coordinate activity and interface with the other groups.
 - (c) Each member of the inspection team must keep notes on a daily basis of his or her activity. The notes shall be placed in the case file.
 - (2) The team shall follow existing procedures as outlined in the FIRM. In addition, the following shall be accomplished:
 - (a) Evaluate potential hazards at the site.

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- (b) Contact family members of deceased or seriously injured employees according to OSHA Instruction CPL 2.89.
 - (c) Provide suitable progress reports to the IOSH Administrator/LSO.
 - (d) Be present during the physical evidence sampling or removal whenever possible.
 - (e) Gather witness testimony and obtain written interview statements.
 - (g) Complete the necessary IOSH forms.
 - (h) Compile the case file(s).
- (3) The team may include the WDD Director, Iowa Division of Labor Commissioner, Deputy Commissioner, IOSH Administrator, LSO(s), Inspection Team Leader, CSHO(s), Attorneys, Clerical, Outside Experts, Federal OSHA and Other Agencies.
- b. The IOSH Administrator/LSO may reevaluate the scope of the inspection. If the realm (safety/health) needs to change, a referral will be made to the corresponding Section.
- c. An experienced IOSH representative shall normally be designated as the Investigation Team Leader (ITL).
 - (1) The ITL is responsible for coordinating and directing the investigation and reporting findings to the IOSH Administrator/LSO on a daily basis or more often if critical information is obtained.
 - (2) The responsibility of this role cannot be overemphasized, for it is the ITL who acts as spokesperson for the agency in meetings with company, union, insurance, consultant, Federal, State and Local agency officials. Whenever an issue is unclear, the ITL shall consult with the appropriate Inspection Team member(s).
 - (3) The ITL must be aware of the direction and findings of other investigators as well as those of the team. Thus, the ITL's direct investigative work must necessarily be limited since much time and effort must be spent effectively managing these coordinating efforts.

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- E. 8. c. (4) The ITL must assimilate information from all sources and make prompt and accurate decisions regarding the utilization of resources which are at the ITL's disposal and must promptly communicate needs and findings to superiors.
- (5) A concise chronology is an invaluable asset to this process and is therefore required. It must include not only events directly to the incident but also brief notes on meetings, telephone conversations, video and audio recordings, and decision-making processes, including dates and times.
- (6) The ITL must also conduct daily planning sessions with the inspection team in order to be apprised of findings as well as to plan strategy and clearly communicate future investigative activities.
- (7) The ITL shall coordinate full team meetings on a regular basis.
- d. The responsibilities of CSHOs and other team members are not dissimilar to those of any other team inspections. Specialized assignments, however, may be appropriate in some cases.
 - (1) A CHSO shall be designated as the IOSH Site Safety Officer. This individual's primary responsibility will be to advise the ITL on the safety and security of IOSH personnel. This CHSO must be assured direct access to the Incident Commander's safety official at the scene. This CHSO shall report directly to the ITL.
 - (a) The ITL shall specify the required personal protective equipment after consultation with the IOSH Site Safety Officer.
 - (b) After the existence of an emergency situation has been confirmed and the need for an investigation team established, no IOSH personnel shall leave for the scene without minimum personal protection and investigative equipment, as required by the FIRM and specified by the IOSH Site Safety Officer.
 - (2) An on-site Communications Officer may be appointed to ensure rapid and accurate confirmation of information to the IOSH Administrator/LSO. The Communication Officer shall coordinate all site communications and prepare ongoing and executive summaries of all communications and occurrences during the incident. This person shall be located at the IOSH command post.

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- E. 8. d. (3) Personnel from outside the Office shall be assimilated into the team so as to conduct an effective investigation and to utilize their skills efficiently.
- (4) Team members shall be reminded to refer media inquiries and questions on inspection policies and procedures to the IOSH Administrator/LSO. This is especially important for team members who are not government employees and, therefore, may be unfamiliar with the operation and authority of IOSH.
- e. A “command post” shall be established at or near the site to coordinate IOSH activities.
 - (1) The command post shall be established as soon as it is determined that the significant event investigation procedures will be followed.
 - (2) A government office or a hotel room is appropriate for meetings, briefings, storing extra PPE, telephoning, etc.
 - (3) In those cases where there is no available space, it may be necessary to use a vehicle as the on-site command post. In such circumstances, the vehicle shall always be at a specified location and be identified.
- f. On extensive investigations it may be necessary to provide adequate space on the site for the Team to review employer documents and diagrams and to conduct interviews.
 - (1) If the situation arises where a company will not/cannot provide space for the Team to work, the rental of a mobile office, motel room or other working quarters may be necessary.
 - (2) The IOSH Administrator/LSO shall coordinate with the Iowa Emergency Management Division to locate temporary offices.
 - (3) Office and field equipment needs may include the following:
 - (a) Telephone Service (wired, cellular and pagers)
 - (b) Copy Machine
 - (c) Work Tables and Work Chairs
 - (d) PC with E-Mail Capability, Word Processing, Printer
 - (e) Automated Telephone Answering Machine

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- (f) Fax machine
- (g) Locking File Cabinets
- (h) Durable tags for identifying evidence
- (i) Office Supplies
- (j) Two way radios
- (k) TV and VCR

9. Site Control/Coordination

- a. The team must get to the scene of the catastrophe as soon as possible after it has occurred.
 - (1) The ITL shall ensure that the following pre-inspection actions are accomplished:
 - (a) Assess the extent of damage and personal injury;
 - (b) Attempt to obtain the confidence and cooperation of company and other response officials involved, especially the On Scene Incident Commander, in order to proceed in an orderly and efficient manner.
 - (c) Evaluate any remaining hazards.
 - (d) Begin documenting (videotaping or sketching and photographing when a video camera is not available) the accident scene.
 - (e) Develop a plan for conducting the investigation.
 - (f) Identify potential witnesses to the accident.
 - (g) Evaluate operating conditions just prior to the accident.
 - (2) IOSH's initial actions shall be carefully considered. Time should be allowed for briefings that could aid in the investigation.
- b. It is most important to coordinate IOSH's activities with other responders to establish jurisdiction and ensure control of the site.

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- (1) IOSH shall make every effort to obtain information from these responders (and exchange information with them to the extent permitted by procedures).
 - (2) Federal, State and Local agencies may also be involved in investigation, rescue or recovery, or clean-up activities. IOSH shall contact the principle representative and establish a cooperative arrangement. While IOSH cannot abrogate its responsibility in favor of another agency, every effort shall be made to cooperate in obtaining and exchanging information.
 - (3) IOSH shall determine whether the Federal, State or the local government authorities are on site to investigate the accident. Contact with such authorities shall be made as quickly as possible.
- c. On a large inspection site, one primary employer contact shall be identified to accompany the inspection team on walkaround activities. This person need not be the most knowledgeable person in plant operations but must be familiar with the area and able to contact appropriate company and union personnel as necessary. The primary employer contact must be available for investigation activities at all appropriate times, so as not to hinder the investigation.
- d. If an employer refuses IOSH access to the accident site, the CSHO shall inquire as to the reason. The CSHO shall immediately contact the ITL and give him/her all available information. The ITL shall immediately contact the IOSH Administrator/Legal Staff.
- (1) The CSHO shall continue offsite inspection activity including gathering information from other agencies, taking photographs and videotaping the scene from a public area, and interviewing witnesses offsite while the warrant is being prepared.
 - (2) If entry is refused, the procedures in the FIRM for dealing with the refusal shall be followed, but every effort shall be made to speed the process.
 - (3) If the employer or other parties refuse to give access to records, the CSHO shall carefully document what records are at issue, why they are needed, who refused access, and when the refusal occurred. This information shall be immediately transmitted to the ITL/IOSH Administrator/Legal Staff who shall determine if a warrant or an administrative subpoena is appropriate.
 - (4) It may be necessary to issue administrative subpoenas for records, documents, or other physical evidence. Due to the complexity of

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an emergency condition and the potential need for a fast response, the IOSH Administrator/Legal Staff shall consider an expedited procedure for issuing subpoenas.

- (5) If a witness refuses to be interviewed or to give a statement, the CSHO shall document the person's name, address, title, and information pertinent to the inspection which that person may have. This refusal, and the information obtained, shall be transmitted to the ITL/IOSH Administrator/Legal Staff for consideration of a administrative subpoena.
- e. Because materials which may constitute physical evidence at a worksite may be disturbed or removed, the ITL may decide whether it is necessary to place the site under 24-hour-a-day observation. Such observation may continue until all necessary physical evidence is obtained.
 - (1) If it appears that either lack of site control, material alterations, or removal of material will interfere with the IOSH investigation, the CSHO shall notify the ITL/IOSH Administrator/Legal Staff to get an appropriate court order. In no case shall an IOSH representative attempt to exert authority without such an order.
 - (2) The representatives of other agencies may have a need to remove material and/or to search for missing physical evidence. In addition, during rescue/recovery operations, much of the physical evidence may be removed, displaced, or destroyed. Therefore, it is imperative that every effort be made, as soon as possible, to establish site control and preserve the physical evidence by coordination with the agencies on the site.
10. Evidence. The inspection team shall ensure, to the fullest extent possible, that all evidence at the event site remains undisturbed until IOSH has had an opportunity to document, examine, and inspect it.
 - a. If the employers and other public sector investigators are not cooperative in controlling the site by limiting access of personnel and prohibiting unauthorized removal of material from the site, the ITL shall expeditiously attempt to negotiate a written agreement with the employer or other controlling authority not to disturb any evidence without IOSH's consent. The following basic elements may be addressed in the initial agreement:
 - (1) Designation of the specific area subject to the agreement;
 - (2) How the area will be secured; i.e., fenced with gates to be secured with locks from all parties, 24-hour surveillance, etc.;

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- E. 10. a. (3) Mutual agreement to not tamper, alter or change any object within the designated area;
- (4) Scope to be given to search and rescue operations;
- (5) Provision under which actions may be taken in the interest of safety and health and for notifying IOSH of action taken;
- (6) Preservation of any object already moved at time of agreement so that it is preserved in accordance with the agreement;
- (7) Circumstances under which evidence may be disconnected, videotaped, photographed, marked, moved, repositioned, or removed from the site; and
- (8) Timeframes by which all parties will submit proposals for testing, removing, preserving evidence.
- b. Agreements may also be sought with other agencies and or organizations about the sampling order or removal/alteration order for physical evidence. There may be agreement as to which agency and or organization will remove evidence or take samples first, and there may be an agreement as to which agencies and or organizations will accept the analysis of another or can use the same information as another.
- c. A separate supplementary agreement may be sought specifically dealing with the protocol for examining, collecting and/or testing evidence. The following items shall be addressed:
 - (1) Prohibition against alteration of evidence in any manner until all significant items in the plant have been documented to each party's satisfaction;
 - (2) Specific dates by which identifying and diagramming the location and condition of all pertinent evidence will start, and how evidence is to be identified;
 - (3) Provisions for other parties to be present and observe the documentation process;
 - (4) Specific dates and times within which IOSH will identify evidence and other items to be removed, preserved and/or tested;
 - (5) Circumstances under which the employer and other parties may conduct appropriate tests;

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- E. 10. c. (6) Circumstances under which results, data, and information obtained as a result of testing will be shared with the employer, the union and other interested parties;
- (7) Circumstances under which items identified by IOSH shall be removed, and once removed, how they will be stored and secured; e.g., within enclosed, covered area(s) with one means of access; and
- (8) Access to the secured storage area.
- (9) Methodology by which evidence will be collected and analyzed.
- d. Evidence must have a “chain of custody” to be admissible in court; also the site of the incident must remain as undisturbed as possible for causative factors to be established.
 - (1) Once the required evidence has been identified, the chain of custody must be established.
 - (2) The evidence must be physically identified by either describing identifying markings or characteristics, or by marking the item directly. Videotaping or photographing of physical evidence, prior to and after marking, is recommended.
 - (3) Whatever identifying method is used, it must be durable and must not alter the specimen.
- e. Where equipment has to be removed to eliminate remaining hazards, a record shall be made of such action taken.

NOTE: Photographs or video recordings will be useful both as a record and a basis for analysis. By including a photographer with the first entry of the teams, the investigators ensure that a record is made of much valuable evidence. The investigation of the circumstances surrounding the accident is a methodical accumulation of small bits of information which eventually form a pattern of evidence which is necessary for the determination of the cause. It is recommended that another team member accompany the photographer to log, identify and document the photographs as they are taken.

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- E. 10. f. Evidence shall be systematically collected. The following guidance in the collection of needed information/data is as follows:
- (1) What was the building or structure like before—materials or construction, floor plan, etc.? Does the employer have an “as built” drawing?
 - (2) What was the overall layout before the accident and after it? Aerial photographs of the site, before and after the incident, often provide very helpful information concerning the cause of an accident, especially explosions. After an explosion, pertinent information would include size and composition of material, distance traveled, where an object stopped and what stopped it. This generally will require immediate records of the accident site; photographs and measurements must be made before the site is disturbed. Particular attention should be given to the location of any stray parts of equipment dislodged during the accident. Each item when correlated with other findings may lead to an explanation of the origin of the accident.
 - (3) What are the names and addresses of survivors, eyewitnesses, and persons familiar with the material and/or equipment involved? Of what assistance can they be in reconstructing the sequence of accidents/events? What was the position of the injured and fatally injured, both before and after the accident? What operations were they performing?
 - (4) What operations were being conducted at the time of the accident? Were they routine? Are there written procedures, drawings, checklists, and/or quality assurance monitors? Are there any drawings and/or photographs? Are chemicals involved and will any sampling or analysis be required?
 - (5) What had gone on before the accident? Were there any deviations and/or changes in procedures? Had anyone said there would be or had been a problem? Did anything unusual or strange occur? Had any piece of equipment in the area of the accident experienced frequent or abnormal mechanical problems prior to the accident? Was an error made and then corrected and/or covered up? Had anyone complained about some event and/or condition related to or similar to the accident?
 - (6) Were materials in use at the time of the accident the same as those that had been used previously? Had there be a new shipment received? Were materials taken from an old container? Were new and/or old tools being used? Were the parts/materials used those

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specified in the procedures/drawings? Does the supplier need to be contacted? Will copies of contracts or specifications be necessary? Will material analysis or testing be required?

- (7) Was there any advance training? Were there any unusual conditions that might warrant special training? Was there a written standard operating procedure available? Was there a check or audit to ensure it was followed?
- g. The orderly documentation of evidence is a prime factor for a successful investigation. Although possible causes of the accident may be advanced during the on-site fact finding portion of the investigation, final analysis and evaluation is best performed at the investigation team's office after all facts have been collected and analyzed.
 - (1) In the analysis of an accident, it may be helpful to outline a step-by-step sequence of each possible accident mechanism based on evidence found.
 - (2) If an "evidence gap" is found in one promising mechanism, then additional information is needed.
- h. Photos of areas of interest taken prior to the incident shall be obtained if possible.
 - (1) EPA may take aerial photos to identify potential chemical spills; if so, EPA's aerial photos may be obtained.
 - (2) News clips (i.e., television, radio, newspapers, etc.) documenting the significant event may be obtained.
 - (3) The need for IOSH contracted aerial photography may be evaluated.
- 11. Communications. Effective communication is especially important during these investigation.
 - a. Inspection team progress meetings are important for the team leader and provide a way of keeping each person up to date on the progress of the investigation. The inspection team shall meet daily to review findings, exchange information and plan strategy.
 - b. There are two aspects of media coverage that may be pertinent: providing information to the media and obtaining information from the media.

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- E. 11. b. (1) It is reasonable to expect that reports from radio, TV, and newspapers will make every effort to obtain all available information relative to an emergency situation.
 - (2) To coordinate IOSH's response, only the IOSH Administrator or IOSH Administrator's designee shall discuss the situation with reporters. Names of members of the investigation team shall not be given to the media.
 - (3) If reporters call or contact either the Office or individual team members, the reporters shall be referred to the IOSH Administrator or to the IOSH Administrator's designee. No attempt shall be made to answer any questions related to either the emergency, the investigation, or the individual team members. The following statements may be made to the media:
 - (a) IOSH is investigating or is on the way to the scene;
 - (b) IOSH's purpose in investigating is to determine whether any standards have been violated;
 - (c) After citations, if any, have been delivered to the employer, IOSH will provide copies of its citations; and
 - (d) Additional inquiries should be addressed to the IOSH Administrator or to the IOSH Administrator's designee.
 - (4) Newspapers and television may have photographs, video tapes and/or other visual representations of a site prior to or following an event that may be helpful to the investigation.
 - (5) Every effort (including purchase) shall be made to secure visual representations from the media.
12. Additional Technical Assistance. It may be determined that IOSH will need experts to serve both in determining whether any standards have been violated and testifying at any subsequent legal proceedings.
- a. Expert assistance available from the National Office.
 - (1) Office of Construction and Engineering (OCE). This office was formed, in part, to support investigations of large scale disasters by providing a capability to complete technical assistance and observations. Personnel of the OCE may be involved in any major construction accident and in accidents in other industries contingent upon discussion between the IOSH Administrator,

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Regional Administrator, and the Director of the OCE or at the discretion of the Assistant Secretary of Labor.

- E. 12. a. (1) (a) The personnel assigned to the investigation join the IOSH investigation team and serve under the general discretion of the IOSH ITL.
- (b) The Office of Construction and Engineering and its personnel do not become involved with any news media. The OCE will provide a formal report of their technical findings for inclusion in the completed IOSH case file.
- (2) Directorate of Technical Support (DTS). The Directorate of Technical Support serves as the principal source of agency expertise with respect to scientific, engineering and medical issues. A wide range of support activities can be requested from DTS.
 - (a) On-site services provided by the Health Response Team (HRT) as well as specialists from other offices within the DTS are available.
 - (b) On-site laboratory services, occupational medicine, specialized equipment needs, chemical and professional engineering services and priority technical information retrieval are available to assist.
- b. Where the circumstances of the significant event indicate the need for a private sector consultant, the IOSH Administrator shall make arrangements for the services.
 - (1) The consultant and the IOSH Administrator/Legal Staff shall agree on the scope of the contract.
 - (2) Written contracts must be completed prior to any work performed.
- 13. Witness Interview Procedures. When possible, written witness statements shall be taken to obtain first hand knowledge of conditions at the time of the accident.
 - a. All potential witnesses shall be identified as early as possible in the investigation, and interviews shall be conducted promptly as witnesses' ability to recall will diminish with time.
 - b. If a union is actively involved in the inspection, it can serve as a valuable resource by assisting in determining employees who might have knowledge of facts relative to the accident, (i.e., operations and/or maintenance records or histories of the process of equipment).

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- E. 13. c. The inspection will likely involve interviewing and re-interviewing all available witnesses, so their names, addresses, telephone numbers and how they can be contacted shall be carefully noted. The results of the interviews shall be shared among all team members.
- (1) The union can assist in determining employees' schedules so that interviews can be scheduled.
 - (2) Subdividing the inspection team will allow team members to conduct more initial interviews in a short time.
 - (3) If re-interviews of witnesses are to be conducted, they shall be coordinated with other team members so that everyone interested in key witnesses can participate at the same time.
- d. The value of an interview often depends on the expertise of the interviewer and areas covered. Therefore, the following guidance is provided:
- (1) All witness interviews shall be conducted by experienced CSHO(s).
 - (2) CSHO(s) shall exercise utmost discretion in conducting interviews of injured witnesses and family members.
 - (3) Witness interviews shall always be conducted in private unless the witness requests otherwise. If management is reluctant to permit private interviews of employees on the site, the procedures in the FIRM shall be followed.
 - (4) The CSHO(s) shall carefully question witnesses to solicit as much information as possible related to the accident, including but not limited to processes, procedures, practices, training, maintenance, materials, previous accidents, and any near accidents.
 - (5) Key witnesses may have to be re-interviewed as information is developed by the inspection team. During the initial phase of the inspection, it is more important to ask questions to determine general facts and to help identify key witnesses—particularly those who may have information related to the cause of the accident.
 - (6) Prior to the interviews, the team leaders and members may develop key, critical and screening questions to ask all witnesses. Such questions may be written down and provided to all Inspection

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Team members. These questions may include, but not be limited to the following:

- (a) What is your name, address, telephone number, job, and employer?
 - (b) How long have you done your present job? Have you ever seen any problem(s) like this before?
 - (c) Where were you at the time of the accident? What were you doing? Is that your normal job? Did you notice anything unusual?
 - (d) How did you discover the accident? Were you close enough to physically sense (see, hear, feel, smell) anything?
- (7) If the inspection team is evaluating emergency response, the CSHO(s) shall interview employees about what they were instructed to do during an emergency in their building or on plant property. The team shall evaluate the employer's training and emergency procedures, and determine whether employees were knowledgeable of those emergency procedures. The inspection team shall also investigate how previous emergencies, if any, were handled and if there were any significant problems.
- E. 13. e. Information developed in employee interviews must be documented for use in case file development. Inspection Team members shall take notes of all interviews. Written interview notes may be supported by the following:
- (1) Signed written statements.
 - (2) Audio recordings.
 - (3) Video recordings.
 - (4) Stenographic recordings, etc.
14. Background Review. A review of establishment history and process information can be of great value to the compliance officer conducting the investigation. The team members should review appropriate materials as time permits.
- a. An understanding of workplace terminology can be developed through a review of the safety and health policies and documents,

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operating manuals, Standard Operation Procedures (SOPs), start-up/shut-down procedures, training manuals for operators and job safety analyses, etc..

- (1) Such a review will help in understanding what job each employee performs and how he/she is supposed to perform these tasks and will eliminate unnecessary re-interviewing of witnesses.
 - (2) This review will also be particularly helpful if the actual work practices do not conform with established policies and/or procedures.
- b. Early in the investigation other workplaces with similar or identical operations should be identified.
- (1) If any of these establishments are participants in IOSH/OSHA Voluntary Protection Programs (VPP), an on-site visit and discussion shall be considered to further understand the process and operation as well as help identify common safety and health concerns to the industry.
 - (2) If the practice of the industry is of importance to document a possible general duty clause violation, other companies can be contacted and asked to provide pertinent information.
 - (3) If these companies are reluctant to provide needed information, an administrative subpoena may be utilized to assist in obtaining the needed information.
- E. 15. Document Control. During the inspection, extensive documentation will be collected from the company(ies) inspected. Control must be exercised from the onset to minimize confusion.
- a. All document requests shall be confirmed in writing with a date of delivery and shall be provided to the person representing the employer. A dated copy of the request shall be kept in the case file and notations made when the request was complied with.
 - b. An inventory or log of the documents received shall be maintained. Each document shall have a document reference number.
 - c. Once a document is reviewed, a short summary should be prepared and placed in the file. The summary may be a single line or several paragraphs.

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- d. Periodically the document request log shall be reviewed to ensure that the information is being provided in a timely manner. If critical documents have not been received and are needed, an administrative subpoena shall be issued if necessary.
 - e. If any written and/or visual information is identified as “Trade Secret”, a secure place shall be established for the material. A sign-in/sign-out log to ensure all documents are accounted for shall be maintained.
16. Closing Conference. A closing conference shall not be conducted until after review by the full Inspection Team.
- a. The closing conference shall be conducted by the Inspection Team Leader and offered to both the employer and employee representatives.
 - b. The Inspection Team Leader shall explain the finding(s) of the investigation with emphasis placed on apparent violations.
17. Final Report Preparation. With a team effort, it becomes important to organize the group’s effort so that once a majority of the inspection activities have been concluded, a single composite case file can be developed.
- a. Each team member shall maintain notes of each day’s activities.
 - (1) These notes shall be available to the team.
 - (2) These notes may later be helpful in compiling a chronological inspection narrative.
 - (3) The notes will also aid citation write-up when the inspection is completed.
 - b. The ITL shall designate the CSHO(s) responsible for writing and assembling the final case file.
 - (1) Although each team and/or team member develops a partial case file, they must be assembled by designated individuals into a complete product.
 - (2) If a willful or egregious case is to be developed, the Inspection Team shall follow the FIRM.
18. Disclosure. IOSH’s policy regarding disclosure of case file contents is set forth in Chapter XIV of the FOM.

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- a. Any release of official case file information shall be conducted in accordance with those guidelines.
 - b. If there is to be an official press release concerning the investigation, Workforce Development Department (WDD) policies shall be followed.
- F. Program Evaluation. It is IOSH's policy to evaluate the effectiveness of this instruction.