

OSH INFORMATION MEMORANDUM 90-X-85 (Revised)

To: All SCOSH Personnel

From: Dorothy Ison, Administrator

Date: October 16, 2009

Subject: Incorporating the Family of Accident or Illness Victims into Fatality Investigations

1. Background

The S. C. Compliance Manual contains guidelines for conducting accident and fatality investigations but does not contain any guidelines when dealing with the surviving family of a fatal workplace accident or illness victim.

2. Policy

Family members of employees involved in fatal occupational related accidents or illnesses will be contacted at an early point in the investigation and given the opportunity to provide any information that may assist the Department in its investigation. If requested, the OSH Division will keep the family informed of the progress of the investigation.

3. Guidelines

- a. As soon as practicable after initiating the investigation, the CO/IH shall attempt to compile a list of all of the accident victims and their current addresses, along with the names and addresses of individual(s) listed in the employer's records as next-of-kin or person(s) to contact in the event of an emergency.
- b. If the next-of-kin or the emergency contact person cannot be determined from employer records, the CO/IH shall make a reasonable effort to obtain the information from other sources, such as other employees, police reports, coroner's reports or death certificates.
- c. The CO/IH shall submit the list to the OSHA Administrator who will send an information letter to the family member within five (5) working days. A copy of the letter will be placed in the case file.
- d. If the next-of-kin cannot be located or the letter to the next-of-kin cannot be delivered, a memo for the record or the returned letter will be placed in the case file.

- e. Any pertinent information obtained from the family by the OSHA Administrator will be provided to the CO/IH conducting the investigation.
- f. If the family requests to be kept up-to-date on the status of the investigation, the OSHA Administrator shall provide in accordance with Agency policy, the following:
 - (1) Copies of citations or decision not to issue a citation;
 - (2) Results of informal conferences;
 - (3) Fact that employer has protested and Notice of Hearing;
 - (4) Copies of final decisions;
 - (5) If requested, a copy of the file in accordance with the Public Information Policy.

Note: All OSHA staff members are cautioned, when discussing the Public Information Policy with the family, not to mislead them about the speed with which they can obtain a copy of the disclosable information prior to closing the case file. Staff members are further cautioned that the employer's rights must be protected. There should be no premature release of facts or findings to non-OSHA personnel, before the investigation and subsequent litigation are completed.

4. Effective Date

This memorandum becomes effective September 1, 2009, and shall remain in effect until cancelled or superseded.

Date

Name
Address
City, State, Zip Code

Dear _____ :

Please accept our sincerest sympathy regarding the tragic accident that resulted in the death of your _____, _____. The Department of Labor, Licensing and Regulation, Office of Occupational Safety and Health (OSHA), is conducting an investigation of the accident. Our OSHA office initiates investigations of workplace accidents to determine:

1. Whether a violation of OSHA Safety and Health standards occurred; and/or
2. What effect the standard violation had on the occurrence of the accident.

If there was a violation, the Department of Labor, Licensing and Regulation may issue citations and penalties against the employer, whether or not the violation contributed to the accident. If you feel that you or another family member may have information concerning this accident please contact us.

We want to keep you informed of the progress of the investigation. Copies of citations, results of any informal conference, notice of employer contests, and any other actions taken toward the resolution of this matter can be provided to you. Once the investigation file is closed, the releasable portions of the file will be made available to you at no cost.

Any questions regarding the investigation or any of the above procedures should be addressed to Dorothy Ison, OSHA Administrator, at the above address, telephone # 803-896-7686.

Again, please accept our heartfelt condolences and let us know if we can be of any assistance to you.

Sincerely,

Agency Director

Enclosure

OSHA Fatality Investigations

The Occupational Safety and Health Administration (OSHA) investigates workplace fatalities/catastrophes resulting in the hospitalization of three or more workers. Employers must report these incidents within eight hours.

OSHA inspects the work sites where these tragedies have occurred to determine whether a violation of OSHA safety and health standards related to the accident occurred and what effect the alleged violation had on the accident. If OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil or criminal penalties against the employer.

OSHA cannot release full details on its inspection findings until the investigation is over, any resulting litigation is completed, and the case is closed. This process may be lengthy. In an effort to keep families of deceased workers apprised of developments during an investigation, OSHA will, upon request, send them copies of citations, appeal letters, and the results of any informal settlements as soon as the documents are issued.

Once the investigation is completed, portions of the investigation file normally subject to release under the Freedom of Information Act will be provided to family members **without charge**, upon written or oral request. This information will be provided in accordance with OSH Act provisions permitting OSHA to consult with employees and their representatives during the course of its investigations; accordingly no formal request by the victim's family under the Freedom of Information Act will be necessary.