

**State of Alaska
Department of Labor
Division of Labor Standards and Safety**

AKOSH Program Directive 91-11

Date: September , 1991

To: All AKOSH Staff

From: RL Robert W. Libbey, Director

Subject: AKOSH Response to Significant Events of Potentially Catastrophic Consequence

A. Purpose. It is AKOSH policy to respond as quickly as possible to significant events which may affect the health or safety of employees.

1. This response requires the on-site presence of top agency officials as well as compliance personnel. Additionally, the agency is committed to establishing effective and on-going lines of communication with all affected parties.
2. It is AKOSH's policy to ensure that each significant event is thoroughly and promptly investigated and that all necessary resources be devoted to such investigations.
3. The objective of an investigation conducted pursuant to this Program Directive (PD) is to determine the likely cause of the event.
4. For purposes of this PD, a "significant event" is defined as an occupationally related incident involving multiple fatalities, extensive injuries, massive toxic exposures, extensive property damage, and one which presents potential worker injury and generates widespread media interest. This PD does not address AKOSH's response in the event of a natural disaster.

B. References.

1. Alaska Compliance Manual.
2. PD 90-6, Incorporating the Family of Accident or Illness Victims into the Fatality Investigations.

C. Background

1. Federal OSHA's investigation of workplace conditions which cause, or could cause, catastrophes resulting in multiple loss of life and significant property damage is the agency's highest enforcement priority. Accordingly, OSHA must ensure that its efforts are well focused during these complex investigations.

2. OSHA has learned from its recent investigations of such catastrophic events as the L'Ambiance Plaza building collapse and the Phillips 66 Company explosion that there are common elements present in all such successful investigations that ensure their efficiency and effectiveness. This PD has been developed to assist OSHA's field personnel in the orderly investigation of these unpredictable events.
3. Significant events of potentially catastrophic consequences may also be addressed by elements of the National Contingency Plan (NCP) (40 CFR 30), 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 OSHA as a member of the NRT and states that OSHA "on request" will provide advice and technical assistance to NRT/RRT agencies during emergencies. (See Section 300.175.) Technical assistance may include review of site safety plans and work practices: assistance with exposure monitoring, providing MSDS's, giving advice on personal protective equipment, and help AKOSH with compliance questions. The NCP gives OSHA a limited role during catastrophic events and it has been and OSHA's policy not to engage in activities that would have the effect of impeding the emergency response.
4. AS 18.60 requires that AKOSH respond to catastrophic events, whether or not subject to the NCP. AKOSH must be an active and forceful protector of employee safety and health during the clean-up, removal, storage and investigative phases of these incidents, while maintaining a visible, but limited role during the initial response phase. Catastrophic events are usually handled by the Department of Environmental Conservation (DEC) and/or the Division of Emergency Services (ADES) and local level where the mayor, the local fire and police departments and perhaps the governor are in charge. When a state or federal presence is warranted, the preemption of local authorities may generate dissension or hostility which are counter-productive to the investigation. Communication and coordination among state, federal and local agencies during their response to catastrophic events becomes crucial for operational as well as political considerations.

D. Procedures. In the investigation of significant events, the policies and procedures given in the compliance manual, Chapter VIII, should be followed, except as identified in this PD.

1. Preparation for Investigations of Significant Events.

- a. Training.

- (1) All AKOSH compliance officers shall be trained in the basic elements of this PD within 90 days of its publication. Refresher training on the procedures contained herein will be provided at least annually.
 - (a) It is anticipated that the training provided pursuant to this PD will include a mock catastrophic accident investigation response and investigation plan development.
 - (b) Training shall also provide an overview of AKOSH's activities pursuant to the NCP and an overview of RRT activities and interagency coordination.
- (2) The Director shall also ensure that compliance safety and health officers (CSHO's) designated as specialists pursuant to Subchapter 10 receive training or demonstrate competence in the area of the specialization at ~~least~~ ^{least} annually.
- (3) Individuals with specialized skills or experience may expedite the investigative process. Therefore, the director shall ensure that a skills/expertise profile of AKOSH personnel be maintained as a reference for selecting staff for investigation of significant events. The list should include CSHO's with advanced training; such as, hazardous waste operations and emergency response, chemical industry emphasis program and construction courses involving training on catastrophic potential.

b. Resources.

- (1) The Director shall ensure that AKOSH maintain the full complement of equipment necessary to investigate the hazards commonly found in the workplace. In addition, a contingency plan shall be developed to ensure that specialized technical equipment within Alaska can be provided on-site at a significant event within 24 hours.
- (2) The Director 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.

- (3) The Director shall determine the availability of qualified consultants for the various types of anticipated events. A listing of consultants and their specialities shall be maintained and updated annually. Preliminary contact with these consultants shall include discussion of items such as expertise, cost, availability, confidentiality, etc.
- (4) Availability and expertise of testing laboratories shall also be identified.
- (5) The Director will coordinate with OSHA's Regional Administrator for utilization of the expertise of OSHA's Office of Construction and Engineering or Directorate of Technical Support should be coordinated through the Office of Field Programs as should requests for support from other off-site Federal agencies such as National Institute of Standards and Technology, National Institute for Occupational Safety and Health (NIOSH), Environmental Protection Agency (EPA), and Mine Safety and Health Administration (MSHA).

2. Initial Response/Verification.

- a. AKOSH's policy is to respond to significant events as quickly as possible; therefore, off duty telephone numbers for the following AKOSH personnel shall be maintained and available for use by the Chief, Compliance 24-hours a day:
 - (1) Commissioner
 - (2) Director
 - (3) Deputy Director
 - (4) Chief of Consultation and Training
 - (5) Assistant Chiefs of Compliance
 - (6) OSHA Regional Administrator, Region X
 - (7) OSHA Area Director, Anchorage
- b. Additionally, because equipment and supplies which may be necessary for an accident investigation are stored at the Anchorage AAKOSH Office, the Chief shall ensure that supervisors have ready access to the Anchorage AKOSH Office during off duty 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 from the employer, the person receiving the report shall obtain all the information required to complete the OSHA-36, Fatality/Catastrophic 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) If the Chief 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 constitutes advance notice, and the Compliance Manual, Chapter III, C., applies.
 - (b) If the Chief is unable to obtain all the information needed, other sources shall be contacted. This includes police and fire departments, hospitals, television or radio stations, newspapers, or other governmental agencies.
 - (c) Immediately upon receipt of information from any reliable source that a significant event has occurred, the Chief shall dispatch a CSHO and/or supervisor to the site to obtain information and establish an agency presence.
 - 1 The person(s) dispatched shall have all appropriate PPE and, depending upon circumstances, may or may not begin an investigation at this time and may not necessarily be assigned to any subsequent inspection.
 - 2 This individual's primary function is to gather preliminary information regarding the incident which will be used to assess the need for further AKOSH involvement.
 - (d) The Chief shall notify the Commissioner and Director as soon as possible of any indication of the occurrence of any catastrophic event after news of the event is received.
 - (e) Immediately upon receipt of clear information, either from dispatched AKOSH personnel or from press reports, the Chief shall notify the Commissioner and Director of the event and report as much of the following information as possible:

- 1 Location of accident including county and zip code;
- 2 Company or companies involved and type of business;
- 3 Type of incident (structural collapse, chemical release, etc.);
- 4 Date and time of event;
- 5 Number of persons killed, injured, or unaccounted for;
- 6 Status of rescue operations;
- 7 Whether an AKOSH representative is on-site, or enroute;
- 8 Person(s)/agency(ies) in control of site;
- 9 Other organizations/agencies on site;
- 10 Telephone numbers of all parties on site;
- 11 Other significant information and sources of such information.

(e) Notification of the Director or alternate (Deputy Director) will be attempted regardless of the time the Chief receives clear information concerning the incident. Director notification should not be delayed for details from the site if there is significant state news media coverage of the incident.

(f) The Director at the time of this initial report will advise the Chief of the need to implement the procedures contained in this PD.

(g) The Director or Deputy Director is responsible for notifying the Commissioner of any significant event. The Director and his staff shall have available at all times, the home telephone numbers of:

- 1 Commissioner;
- 2 Chief, Compliance

3 Assistant Chiefs, Compliance

4 Legal Counsel at Department of Law

- (h) Immediately after being briefed by the Chief, Compliance, the Director will attempt to notify the Commissioner. If unable to reach the Commissioner, the Director will attempt to notify a Deputy Commissioner.
- (i) The Chief, upon verification of the magnitude of the event, shall assess the need for a team investigation of the incident. Procedures outlined in paragraph D.7. of this PD shall be followed if a team approach is warranted.

3. Initial On-Site Investigation Activities.

- a. Upon arrival at the incident scene, the AKOSH representative (CSHO or Supervisor) dispatched by the Chief shall establish contact with the employer and the on-scene Incident Commander as soon as possible. For incidents subject to the NCP, the AKOSH representative shall also contact the Federal or State on-scene coordinator and provide technical assistance as appropriate. The opening conference may be delayed only if management is engaged in rescue or emergency response activity.
- b. The AKOSH representative first on the scene shall use a video camera to document all characteristics of the event. Continued extensive use of the video camera is recommended throughout the initial stages of the investigation since conditions can change rapidly in such emergency situations. This documentation may later prove invaluable in determining the cause of the accident. A team member shall provide a voice-over narrative to describe what is being taped as the videotape is recorded. Use of audio tape recorders early in the investigation is also encouraged. Audio tapes may be transcribed once the site is stabilized.
- c. During emergency response activities the team leader shall be available to provide assistance to responders through consultation with the on-scene Incident Commander or designee. There may be safety and/or health concerns about entry into the accident area, and therefore, changes in the accident scene may be necessary in order to make the area safe. Any changes shall be carefully documented.
- d. If terrorist or criminal activity is suspected, the Chief shall make every effort to ensure the security of AKOSH personnel. The Chief shall contact the State Police, Federal Bureau of Investigation and/or the Bureau of Alcohol, Tobacco and Firearms as appropriate with pertinent information as soon as possible.

4. AKOSH's Role in Ensuring Protection of Emergency Responders.

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5. Coordination of AKOSH Activities With Other On-Site Authorities.

- a. Response of AKOSH personnel to emergency situations requires careful consideration due to the following factors:
- (1) State and/or local authorities have legislated roles in providing emergency response to ensure protection of lives and property.
 - (a) The importance of AKOSH's coordination and cooperation with and technical assistance to these authorities during the initial phases of AKOSH's on-site activity cannot be over-emphasized.
 - (b) AKOSH can often utilize reciprocal support from local and/or State authorities to eliminate the necessity for AKOSH legal section in ensuring site and evidence control.
- 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.
- (1) Where necessary, the Chief shall consult with the Director to determine if the spill, accident, or emergency situation in question falls within the specific authority of another Federal Government agency.
 - (2) If the Interagency Regional Response Team is activated by the EPA, DEC, ADES or the Coast Guard, all OSHA communication and coordination will go through AKOSH's representative, to give technical assistance to the Incident Commander, to avoid further loss of life or property damage.
- c. The presence of on-site AKOSH personnel, if not properly managed, could complicate rescue operations, clean-up, or other emergency response activities.
- d. AKOSH personnel are not, in general, specifically trained or experienced in directing emergency response or serving as the Incident Commander, therefore;

- (1) Only those CSHO's who have received special training in emergency response including advanced respirator use may engage in on-site consultation activities regarding respiratory protection. Consultation shall be through the Incident Commander, normally through the safety official.
- (2) All inspection duties during this phase of the investigation must be performed by compliance officers who have successfully completed all AKOSH required training courses or their equivalent as outlined in 10-0101(q), Hazardous Waste Operation and Emergency Response Code.

6. CSHO Protection During Initial Phases 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 AKOSH's response to a significant event, AKOSH personnel may encounter hazardous conditions which present a significant risk to their safety and health. Among the potential hazards that may be encountered are: highly toxic atmospheric and surface contamination, including carcinogens, the identify and concentration of which may not be known; explosive or corrosive atmospheres; confined spaces; and the potential for spontaneous generation of atmospheres immediately dangerous to life and health.
- c. The team leader (see paragraph D.6.c.) 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) Rxxlpsove 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) is not available for protection against the contaminant or biohazard present or CSHO's are not fully trained in use of the PPE.
 - (f) Ionizing or non-ionizing radiation is present at levels which would result in exposures of OSHA personnel exceeding permissible exposure levels.
 - (g) Entry of pressurized chambers where decompression facilities are not available on-site.
 - (h) Presence of, or high probability of rapid generation of, atmospheres immediately dangerous to life and health.
 - (i) Structure or excavation 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 Team Leader shall refer the particulars of the situation to the Chief. Entry into the hazardous area is prohibited unless entry is essential to the investigation and approval is granted by the Chief.
- (3) Where necessary, the Chief shall discuss the hazardous conditions reported by the Team Leader with the Director prior to determining an appropriate course of action.
- (4) No compliance officers shall enter any area where Level A protection is required without specific approval by the Director.
- (5) Inspection activity must be carefully planned to minimize the on-site time required, thus reducing potential exposure time.

7. Team Inspection Procedures and Contingencies.

- a. As determined by the scope and magnitude of the event, it may be necessary for the Chief to assemble an inspection team to provide a comprehensive approach to the investigation. Members of an inspection team shall be selected based upon their experience and abilities. The Director may, if necessary, request from the Regional Administrator that OSHA personnel with special expertise be members of the AKOSH

inspection team. (See the Compliance Manual, Chapter VIII.)

- (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 around the initial accident.
 - (b) Each group shall have a designated leader to coordinate activity and interface with 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 function of an investigation team is to conduct the AKOSH investigation once the emergency response phase of the significant event has ceased. The team shall follow existing procedures as outlined in Chapter VIII of the Compliance Manual. In addition, the team shall:
 - (a) Evaluate potential hazards at the site.
 - (b) Contact family members of deceased or seriously injured according to PD 90-6.
 - (c) Provide suitable progress reports to the Director.
 - (d) Be present during physical evidence sampling or removal.
 - (e) Gather witness testimony and obtain written interview statements.
 - (f) Obtain and assemble copies of all needed reference documents.
 - (g) Complete the necessary AKOSH and OSHA forms.
 - (h) Compile the case file(s).
- b. A supervisor or senior CO 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 Chief on a daily basis or

more often if critical information is obtained.

- (2) The responsibility of this role cannot be over emphasized for it is the ITL who acts as spokesperson for the agency in meetings with company, union, insurance, consultant, and state and local agency officials.
 - (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 in effectively managing these coordinating functions.
 - (4) The ITL must assimilate information from all sources and make prompt and accurate decisions regarding the utilization of resources which are at the leader'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 related directly to the incident but also brief notes on meetings, telephone conversations, video and audio recordings, and decision 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.
- c. 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 CSHO shall be designated as the AKOSH Site Safety Officer. This individual will be delegated the primary responsibility of advising the ITL on the safety and security of AKOSH personnel. This specialist CSHO may also function as the primary technical advisor to those engaged in dealing with controlling the significant event. This CSHO must be assured direct access to the Incident Commander's safety officials at the scene. This CSHO shall report directly to the ITL.
 - (a) The ITL shall specify the required personal protective equipment after consultation with the AKOSH Site Safety Officer.
 - (b) After the existence of an emergency situation has been

confirmed and the need for an investigation team established, no AKOSH personnel shall leave for the scene without minimum protection and investigative equipment, as required by the Compliance Manual and specified by the AKOSH Site Safety Officer.

- (2) An on-site Communications Officer shall be appointed to ensure rapid and accurate confirmation of information to the Chief and Director. 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 AKOSH command post.

NOTE: In certain situations such as a major oil spill where more than one Division of the Department of Labor is involved, the Communications Officer may be an employee of another Division or the Commissioner's Office.

- (3) Personnel from outside AKOSH 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 Director. This is especially important for team members who are not agency or government employees and therefore may be unfamiliar with the operation and authority of AKOSH.

d. A "command post" must be established at or near the site to coordinate AKOSH activities.

- (1) The command post must 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 ideal for meetings, briefings, storing extra personal protective equipment, 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 shall have an identifying flag or pennant either mounted on the roof or flown from the radio antenna.

e. After discussion with the Director concerning the scope of the investigation, the Chief may decide to appoint one of the Assistant Chiefs to

handle normal office functions during the course of the inspection. AKOSH staff shall be notified in writing concerning the status of office supervision.

- f. On extensive investigations it may be necessary to provide adequate space on the site for compliance staff to review employer documents and diagrams and to conduct interviews.
 - (1) If the situation arises where a company will not or cannot provide space for compliance officers to work, the rental of a mobile office, motel room or other working quarters may be necessary.
 - (2) The Chief shall investigate sources of temporary offices as part of their predisaster planning.
 - (3) Office equipment needs may include the following:
 - (a) Telephone service (wired and cellular).
 - (b) Copy machine.
 - (c) Work tables.
 - (d) PC with E-Mail capability.
 - (e) Automated telephone answering machine.
 - (f) Fax machine.
 - (g) Locking file cabinets.
 - (h) Durable tags for identifying evidence.
 - (i) Office supplies.

8. Site Control/Coordination

- a. Team leaders must get to the scene of the catastrophe as soon as possible after it has occurred.
 - (1) The Chief and/or team leaders shall ensure that the following preinspection actions are accomplished:
 - (a) Assess the extent of damage and personal injury;
 - (b) Establish appropriate security and isolation of the area involved.

- (c) 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.
 - (d) Evaluate any remaining hazards.
 - (e) Begin documenting (videotaping or sketching and photographing when a video camera is not available) the accident scene.
 - (f) Develop protocol for conducting the investigation.
 - (g) Identify all potential witnesses to the accident.
 - (h) Evaluate operating conditions just prior to the accident.
 - (i) Make a preliminary estimate of the accident cause.
- (2) The team members' initial actions shall be carefully considered. Rather than rushing out and examining evidence immediately, they shall allow time for briefings by the senior officials of the operating organization. The investigators' main interest at this time is to establish a cooperative working relationship with the employer's representatives.
- b. It is most important to coordinate AKOSH's activities with other responders to establish jurisdiction and ensure control of the site.
- (1) The team leader shall make every effort to obtain information from these responders (and exchange information with them to the extent permitted by procedures).
 - (2) Other Federal, State and local agencies may also be involved in investigation, rescue or recovery, or clean-up activities. The team leader shall contact the principal representative and establish a cooperative arrangement. While AAKOSH cannot abrogate its responsibility in favor of another agency, every effort shall be made to cooperate in obtaining and exchanging information.
 - (3) The team leader shall determine whether the State or the local government authorities are on site to investigate the accident. Contact with such authorities shall be made as quickly as possible by the team leader to arrange for control of the site.

- 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 AKOSH access to the accident site, the CSHO shall inquire as to the reason. The CSHO shall immediately contact the Chief and give her or him all available information.
 - (1) The CSHO shall continue offsite inspection activity including gathering information from other agencies, taking photographs and video-taping the scene from a public area, and interviewing witnesses offsite while the warrant is being prepared.
 - (2) If entry is refused, the procedures for dealing with the refusal shall be followed, but every effort shall be made to speed the process; e.g., telephone communications shall replace written requests. (Any consultant projected to be used during the inspection shall be included in the warrant application.)
 - (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 has custody of the records, who refused access, and when the refusal occurred. This information shall be immediately transmitted to the Chief 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 an emergency condition and the potential need for a fast response, the Director 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 immediately to the Director for an administrative subpoena compelling the individual to appear and be deposed.

- e. AKOSH presently has no regulation to require an employer or any other authority to limit access or prohibit removal or disturbance of materials which may constitute physical evidence at a worksite. The team leader shall decide, even in the presence of police security, whether it is

necessary to place the site under 24-hour-a-day observation. Assistance of the on-scene Incident Commander shall be obtained if possible. Such observation must continue until all necessary physical evidence is obtained.

- (1) The need for this observation is twofold. It reduces the likelihood of further injuries to personnel and it prevents the removal of equipment and debris from the accident area, thereby ensuring that evidence is not tampered with or inadvertently destroyed.
- (2) If it appears that either lack of site control, material alterations, or removal of material will interfere with the AKOSH investigation, the team leader shall notify the Chief who shall contact the Legal Counsel (through the Director) to get an appropriate court order. In no case shall an AKOSH representative attempt to exert authority without such an order.
- (3) The representative 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, especially the on-scene Incident Commander, as well as those which will be involved later.

f. AKOSH's jurisdiction may be preempted by a Federal agency, i.e. MSHA. In such cases, the guidelines given in the Compliance Manual, Chapter III, D.6.a., shall be observed with the following special considerations:

- (1) If it is reasonably possible that AKOSH has coverage, the Chief shall start the investigation at once and not let potential jurisdictional problems interfere with either notification to the Director or with the investigation. The Chief, in consultation with the Director and the Legal Counsel, shall determine whether AKOSH has jurisdiction over the worksite in question as quickly as possible.
- (2) Where it is likely that AKOSH authority is preempted, such as coal mine accidents, no investigation shall be conducted. The Director shall be notified of these incidents and technical assistance shall be offered to the responding agency if so directed by the Director.

g. Inevitably circumstances will arise that are not covered by the preceding sections of this PD. The Chief shall be alert to these unusual circumstances so that proper action can be taken and their occurrences will not hinder the investigation.

- (1) 8 AAC 61.020(c) authorizes the agency to seek a warrant in advance of any attempted inspection if circumstances are such that "Preinspection process is desirable or necessary." Issuance of anticipatory warrants is addressed in the Compliance Manual, Chapter III, B.3.
- (2) In the event of a denial of entry occurring on a weekend, the Chief shall determine if a warrant is needed prior to the following Monday. If so, the Director shall be informed of this need and shall in turn contact the Legal Counsel.
- (3) After approval from the Attorney General's Office, arrangements must be made to have a magistrate sign the warrant. To facilitate this process, the Chief shall attempt to obtain the home telephone number of the magistrate.

h. Use of Temporary Restraining Order

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9. Evidence. The inspection team shall ensure, to the fullest extent possible, that all evidence at the event site remains undisturbed until AKOSH has had an opportunity to document, examine, and inspect it.

- a. In the past, the employers and other public sector investigators have been cooperative in controlling the site by limiting access of personnel and prohibiting unauthorized removal of material from the site.
- b. The inspection team leader shall attempt to negotiate an agreement with the employer or other controlling authority not to disturb any evidence involved in the significant event without AKOSH consent and negotiate a written agreement regarding preservation of all evidence in the accident area. The following basic elements shall be addressed in the initial agreement:
 - (1) Designation of the specific work area subject to the agreement;
 - (2) How the area will be secured; i.e., fenced with one gate to be secured with locks from all parties, 24-hour surveillance, etc.;
 - (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 AKOSH 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, removal preserving equipment and other times.
- d. Agreements shall also be sought with other investigators about the sampling order or removal/alteration order for physical evidence. There shall be agreement as to which agency or organization will remove evidence or take samples first and which agencies or organizations will accept the analysis of another or can use the same information as another.
- e. A separate supplementary agreement shall be sought specifically dealing with the protocol for examining and/or testing equipment. The following items shall be addressed:
- (1) Prohibition against alteration of equipment 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 equipment will start, and how equipment is to be identified;
 - (3) Provisions for other parties to be present and observe the documentation process;
 - (4) Specific dates and times within which AKOSH will identify equipment and other items to be removed, preserved and/or tested;
 - (5) Circumstances under which the employer and other parties may conduct appropriate tests;
 - (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 AKOSH shall be

- (a) What was the building or structure like before--materials of construction, floor plan, etc.? Does the employer have an "as built" drawing?
- (b) 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 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.
- (c) What are the names and addresses of survivors, eyewitnesses, and persons familiar with the material or equipment involved? Of what assistance can they be in reconstructing the sequence of accidents/events? What was the position of fatally injured employee(s) and survivor(s), both before and after the accident? What operations were they performing?
- (d) What operations were being conducted at the time of the accident? Were they routine? Are there written procedures, drawings, checklists, and quality assurance monitors? Are there any drawings or photographs? Are chemicals involved and will any sampling or analysis be required?
- (e) What had gone on before the accident? Was there any deviations 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 or covered up? Had anyone complained about some event or condition related to or similar to the accident?
- (f) Were materials in use at the time of the accident the same as those that had been used previously? Had there been a

new shipment received? Were materials taken from an old container? New new (or old) tools being used? Were the parts/materials used those specified in the procedure/drawings? Does the supplier need to be contacted? Will copies of contracts or specifications be necessary? Will material analysis or testing be required?

- (g) 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?
- (5) The accumulation of useful evidence follows a random pattern, but the interrelationships of various findings is often significant. A meeting at the end of a day, to review the results obtained by each team, is an effective means of exchanging information.
- (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 weighted against the anticipated results. If it appears that the key to an accident is dependent on the location of a particularly elusive component, extended efforts are warranted.
- (7) 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 investigating team's office after all facts have been collected and analyzed.
 - (a) 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.
 - (b) If an "evidence gap" is found in one promising mechanism, then additional information is needed.
- (8) Some time should also be devoted to evaluating the facility's emergency procedures for their effectiveness during the accident. It is possible several useful revisions may be recommended.
- g. Photographs taken during the inspection shall be mounted and identified by the team member taking them as soon as they are received. If mounting is not possible, each photograph shall be identified on the back to indicate what it shows, and when, where, and by whom it was taken.

- 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 shall be obtained.
 - (2) Videotape news clips taken during the event showing actual footage of the fire or subsequent explosions shall also be obtained.
 - (3) The need for AKOSH contracted aerial photography shall be evaluated.

10. Communications. Effective communication is especially important during these investigations.

- a. The following communications equipment should be considered depending upon the circumstances which arise during the investigation.
 - (1) Walkie-talkies will be rented from commercial sources. Compliance officers conducting the catastrophic inspection may be able to coordinate walkie-talkie use with the police or other government agencies.
 - (2) Pagers for key personnel can be rented from commercial sources.
 - (3) Mobile (cellular) phones are particularly useful to maintain communication with the Juneau and Anchorage offices.
 - (4) Portable Telefax equipment can greatly assist off-site information dissemination.
 - (5) Portable copy units shall be available whenever necessary on site.
 - (6) A portable microcomputer shall be available on site for use by the team in writing the accident investigation report. If technically possible, the microcomputer should be equipped with a modem so that information can be transmitted directly to the Anchorage minicomputer.
 - (7) Access by telephone is imperative in order to communicate with the Anchorage and Juneau offices. If the team is stationed in an office space on the site, access to the employer's telephone may be sufficient.
 - (a) In the event that the AKOSH control site/room is a leased space, such as a trailer, it may be necessary to obtain telephone service through requisition.

- (b) In addition to the items above, a cellular phone will prove most useful to maintain contact with on-site team members, the Anchorage office, and others as necessary.
- b. A status report of the inspection shall be sent to the Director daily, until the situation has stabilized. The reports may be sent, at the discretion of the Director, directly from the team control room by fax machine.
- c. A representative of AKOSH shall initiate contact with family members of any accident victims. (See DOSH PD 90-6) Circumstances may warrant a collective "group" meeting with family members in large catastrophic investigations as the investigation gets underway and when the AKOSH investigation is concluded.
- d. Periodic 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. Teams shall meet frequently to review findings, discuss possible theories of causation, and exchange information.
 - (1) All of the teams or as many representatives as possible shall meet once a week to provide an overview of each one's activities completed thus far as well as planned. (Specific times for meetings should be designated to facilitate planning of other inspection activities.)
 - (2) If inspection teams are divided into specialized areas (e.g., system safety, emergency response activity), a mechanism must be established so information can be exchanged. Each group shall review all requested documents and information which could be of importance to another and place a copy of the document in a folder kept for that purpose in the on-site AKOSH command post. All other teams shall be made aware of the material in the folders.
- e. There are two aspects of media coverage that may be pertinent: providing information to the media, and obtaining information from the media. The Commissioner's Office shall be notified of the nature and extent of media contacts.
 - (1) It is reasonable to expect that reporters from radio, TV, and newspapers will make every effort to obtain all available information relative to an emergency situation.
 - (2) To coordinate AKOSH's response, only the Director or the Director'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 Anchorage office or individual team members, the reporters shall be referred to the Director or to the Director's designee; no attempt shall be made to answer any questions related to either the emergency, the investigation, or the individual team members.
- (4) The Director shall periodically review media involvement with the office. Although the Director will normally be the media contact, any AKOSH staff member may make the following statements:
 - (a) AAKOSH is investigating or is on the way to the scene;
 - (b) AKOSH's purpose in investigating to determine the cause of the incident and to determine whether any standards have been violated;
 - (c) After citations, if any, have been delivered to the employer, AKOSH will announce and provide copies of its findings; and
 - (d) Additional inquiries should be addressed to the Director.
- (5) Newspapers and television may have photographs, video tapes or other visual representations of a site prior to or following an event that may be helpful to the investigation.
- (6) Every effort (including purchase) shall be made to secure visual representations from the media. It is possible, however, that photographs or newsreel tapes will not be released without subpoenas. The Legal Counsel can recommend approaches to obtaining information from the media and/or other sources.

11. Plan of Investigation. The investigation team leaders shall develop and submit to the Chief a written plan for investigating the accident and to determine its cause.

- a. The plan shall be submitted to the Director within one week. A written summary or synopsis of events to date and a description of the accident shall be included.

Periodic updates shall be made to the plan as new information becomes available.

- b. The following issues shall be considered when developing this plan, and in conducting the investigation:

- (1) Site safety.
- (2) Inspection team strategies.
- (3) Use of consultants.
- (4) Collection of physical evidence.
- (5) Equipment and evidence testing.
- (6) Review of employer documentation.
- (7) Document control.
- (8) Media exchange.

12. Extra OSHA Technical Assistance. It may be assumed that AKOSH, which has only limited staff resources, to need experts available to OSHA to serve both in determining the cause of the accident and testifying at any subsequent legal proceedings. Coordination between AKOSH and the OSHA Regional Administrator will be at the Director's level. The Director, through the Commissioner, will, in writing, formally request OSHA Technical Assistance.

a. The following are the types of expert assistance that is available from OSHA's National Office:

- (1) Office of Construction and Engineering. This office was formed, in part, to support investigations of large scale disasters by providing a capability to complete technical analysis and observations. Personnel of the office will be involved in any major construction accident and in accidents in other industries contingent upon discussion between the Regional Administrator, and the Director of the Office or at the direction of the Assistant Secretary.
 - (a) The personnel assigned to the investigation join the investigation team and serve under the general direction of the team leader while maintaining the capability to complete the objectives of the technical analysis of cause.
 - (b) The Office of Construction and Engineering and its personnel do not become involved with any news media and make no periodic reports to the National Office in lieu of, or in addition to those provided by the Regional Administrator. In most cases the Office of Construction and Engineering will provide a formal report of the technical

findings of the investigation. This report will be provided to the Regional Administrator for inclusion in the completed case file. Copies of the report will be released only after citations are issued and a determination is made that no trade secrets are revealed by its contents.

- (c) Since the observation of physical evidence is important and since this evidence should be examined before it is moved or disturbed, it is important that the Office of Construction and Engineering be involved in the investigation as soon as possible. The Director or Deputy Director can be reached on nights and weekends by dialing home phone numbers provided to the Assistant Secretary and the Regional Administrators.
- (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 the DTS.
- (a) On-site services provided by the Health Response Team (HRT) as well as specialists from other offices within the Directorate 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 regional efforts.
 - (c) The DTS has assisted in developing inspection protocols for investigating catastrophic releases, National Emphasis Programs for Safety and Health in the Chemical Industry, developing OSHA training programs and directives for system safety reviews, performing plant inspections, review of process and instrumentation diagrams, and researching literature for documentation to support proposed citations.
- b. Where the circumstances of the significant event warrants prompt action, the Chief shall, with the concurrence of the Director, contact a private sector consultant and request that a representative be sent to the accident site. All State of Alaska procurement regulations and procedures must be followed when contracting with a private sector consultant. The Director of Administrative Services will be contacted when it is determined that a private consultant's services may be needed.

- (1) The Chief should develop an inventory of consultants companies that are available in the State.
 - (2) The Chief may discuss items such as cost, place, time, name, contract points, results expected, confidentiality, limitations on the availability of money, etc. The Chief must be careful not to comit the Department without an approved purchase order and/or personal services contract from the Administrative Services Division.
13. Witness Interview Procedures. Witten witness statements shall be taken to obtain first hand knowledge of conditions at the time of the accident.
- a. Witnesses will be identified as indicated in paragraph D.9.f.(1).
 - (1) 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.
 - (2) 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, for example, operations and/or maintenance records or histories of the process of equipment.
 - (3) The inspection likely will involve interviewing and reinterviewing 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.
 - b. The primary employer contact, as outlined in D.8.c. of this PD will be utilized to schedule employee interviews.
 - (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 reinterviews 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.
 - c. The value of an interview often depends on the expertiser of the interviewer and areas covered. Therefore, the following guidance is provided:

- (1) All witness interviews shall be conducted by experienced CSHOs.
- (2) CSHO 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 request otherwise. If management is reluctant to permit private interviews of employees on the site, the procedures in the Compliance Manual shall be followed.
- (4) The CSHO shall carefully question witnesses to solicit as much information as possible related to the accident, including processes, procedures, practices, training, maintenance, materials, previous accidents, and any near accidents.
- (5) Key witnesses may have to be reinterviewed as information is developed by the inspection team. During the initial phase of the investigation, 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 shall develop key, critical and screening questions to ask all witnesses. Such questions may be written down and provided to all interviewers.
 - (a) While a specific list of questions is highly desirable, it may be more practical in some cases to have only a list of the topic to be covered.
 - (b) This list shall be developed before any interviews are conducted and shall include:
 - 1 What is your name, address, telephone number, job, and employer?
 - 2 How long have you done your present job? Have you ever seen any problem like this before?
 - 3 Where were you at the time of the accident? What were you doing? Is that your normal job? Did you notice anything unusual?
 - 4 How did you discover the accident? Were you close enough to physically sense (see, hear, feel, smell)

anything?

5 See also paragraph D.9.f.(4) of this PD.

(7) If the inspection team is charged with evaluating emergency response, the CSHO shall interview employees about what they were instructed to do during an emergency in their building or on plant property to evaluate the employer's training and emergency procedures, and to determine whether employees were knowledgeable of those emergency procedures. Interviewers shall investigate how previous emergencies, if any, were handled and if there were any significant problems?

d. Information developed in employee interviews must be documented for use in case file development.

(1) Interviews shall not be tape recorded as the only record of the interview. If a tape recorder is used, the compliance officer taking the statement shall also prepare a written statement and have the employee read and verify by signature the accuracy of the information.

(2) A summary of pertinent information from each witness shall be prepared and stored with each team.

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, operating manuals, Standard Operating Procedures, startup/shut-down procedures, training manuals for operators and job safety analyses.

(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 reinterviewing of witnesses.

(2) This review will also be particularly helpful if the actual work practices do not conform with established company policies or procedures.

b. Early in the investigation other workplaces with similar or identical operation shall be identified.

(1) If any of these establishments are participants in OSHA Voluntary Protection Programs, 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 by phone and asked to provide pertinent information.
- (3) If these companies are reluctant to provide needed information, an administrative subpoena can again be utilized to assist in obtaining the needed information.

15. Document Control. During the inspection effort extensive documentation will be collected from the companies inspected. Control must be exercised from the onset to minimize confusion.

- a. All document requests shall be confirmed in writing 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 be given a case file log number.
- c. Once a document is reviewed, a short summary shall be prepared and placed in the file. The summary may be a single line or several paragraphs.
- d. Periodically the documents 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 or visual information is identified as "Business Confidential - Trade Secret," a secure place shall be established for the material. A locked file cabinet shall be used with a sign-in/sign-out log to ensure all documents are accounted for.

16. Closing Conference. A closing conference shall not be conducted until the Chief, in conjunction with the Director, gives permission to do so.

- a. The closing conference shall be conducted by the team leaders and offered to both the employer and employee representatives. Outside agencies, insurance companies, media, etc., shall not be allowed to attend the closing conference without the permission of the Chief and the employer.

- b. Each team leader shall explain the finding of the investigation with emphasis placed on apparent violations which may have precipitated the significant event and recommendations on how to prevent a similar incident.
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 a journal of each day's activities covering things accomplished and notations of things to do.
 - (1) These journals, in a standard format designated by the ITL, shall be provided to the team leader each week.
 - (2) These journals, with a little modification, can later be compiled into a chronological inspection narrative.
 - (3) The daily journal will also aid in citation write-up when the inspection is completed.
 - b. As soon as the inspection team determines (based on interviews or observations) that a violative condition or potential violative condition exists, appropriate notations shall be entered on the journal and developed as the inspection progresses.
 - c. The team 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 the Chief determines that an egregious case should be developed or that one or more of the violations will be classified willful, this decision will not be made without consultation with the Director and the legal counsel. The legal counsel's advice will be sought to ensure that all evidence and documentation necessary are collected. Similar precautions shall be taken for cases involving potential criminal violations.
18. Disclosure. AKOSH's policy regarding disclosure of case file contents is set forth in Chapter XIV of the Compliance Manual.
- (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 disaster investigation, the Director, in consultation with the Chief, shall draft one for Commissioner's Office approval prior to issuance of the citation(s).

E. Program Evaluation. It is AKOSH's policy to evaluate the effectiveness of this PD each time its procedures are implemented. Therefore, the Chief shall submit a critique of the procedures outlined in this PD within 90 days of the completion of an investigation of a significant event. In addition, the Chief shall submit a proposed investigation scenario for industry specific conditions which are not fully covered by this PD. These scenarios will be reviewed for incorporation into this PD, as appropriate.