Chapter 3

ACCIDENT REPORT

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Chapter 3

ACCIDENT REPORT

Policy Statement: It is the policy of the Division of Occupational Safety and Health (DOSH), also known as Cal/OSHA or the Division, to obtain complete and accurate information about all employment accidents which are reported to DOSH by employers or by any state, county or local public safety agency, or about which DOSH learns through other sources.

Purpose: This policy is intended to set forth procedures for DOSH team members to accurately document accident reports in accordance with applicable laws and regulations, ensuring worker safety and protecting workers' rights to a safe and healthy work environment.

Authority: DOSH will administer this policy in compliance with all applicable laws, rules, and guidance:

- California Code of Regulations, Title 8, Sections 330(h) and 342
- California Labor Code, Sections 6302, 6313, 6315.3, 6317, 6409.1(b), and 6409.2
- Applicable DIR-DOSH Directives and Special Emphasis Programs, including Heat Illness Prevention Special Emphasis Program
- Applicable Federal OSHA Adopted Directives and National Emphasis Programs

Definitions:

The following definitions apply to this policy:

1. **Fatality**

   An employee death resulting from a work-related incident or exposure such as an accident or illness caused by or related to a workplace hazard.

2. **Catastrophe**

   The hospitalization of three (3) or more employees resulting from a work-related incident such as an accident or illness caused by a workplace hazard.

3. **Amputation**

   The traumatic loss of an appendage, such as an upper or lower limb (or part of the limb) or other external body part that has been severed or cut off either completely or partially at the time of the injury or is surgically removed due to irreparable damage. Amputations may or may not include bone loss.

4. **Loss of eye**

   The physical removal of an eye occurs either at the time of injury or is surgically removed due to irreparable damage.

5. **Pesticide Illness**

   A pesticide illness case is a patient who is or may be suffering from pesticide poisoning or any disease or condition caused by a pesticide. The term pesticide includes any product intended to repel, kill, prevent, destroy, control, or mitigate any pest. Pesticides include insecticides, herbicides, plant growth regulators, rodenticides or other vertebrate control agents, repellents, desiccants, fungicides, miticides, disinfectants, sterilant, and sanitizers. Spray adjuvants are pesticides under California law (see *Office of Environmental Health Hazard Assessment*).

6. **Serious Exposure**

   Serious exposure is an exposure to a hazardous substance that occurs as a result of an incident, accident, emergency, or exposure over time and is in a degree or amount sufficient to create a realistic possibility that death or serious physical harm in the future could result from the actual hazard created by the exposure.

7. **Serious Injury or Illness**

   Serious injury or illness means any injury or illness occurring in a place of employment or in connection with any employment that requires **inpatient hospitalization** for other than medical observation or diagnostic testing, or in which an employee suffers **an amputation**, the **loss of an eye**, or any **serious degree of permanent disfigurement**, but does not include any injury or illness or death caused by an accident on a public street or highway, unless the accident occurred in a construction zone. “Serious injury or illness” includes silicosis and silica-related lung cancer (Labor Code [Lab.] Section [§] 6302[h]).

   ***NOTE*:** Work-related injuries, illnesses and deaths caused by the commission of a Penal Code violation are no longer excluded from the definition of "serious injury or illness."

8. **Immediately**

   Immediately means as soon as practically possible but no longer than eight (8) hours after the employer knows or with diligent inquiry would have known of the death or serious injury/illness/exposure. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than twenty-four (24) hours after the incident.

9. **Cal/OSHA Form 36**

   Cal/OSHA Form 36: *Accident Report* is a form used by DOSH to record the report of an employment accident that is fatal to one or more employees or that results in serious injury or illness, or serious exposure.

10. **Duty Officer for the Day**

    A trained employee within DOSH's Enforcement Branch assigned to carry out the tasks of taking report of an employment accident that is fatal to one or more employees or that results in a serious injury or illness, or serious exposure.

11. **Designee**

    An employee authorized to act on behalf of the District Manager (DM) or Senior Industrial Hygienist Supervisor (SIHS) in their absence.

Procedures:

I. Accident Processing

A. General

DOSH's compliance personnel must complete Cal/OSHA Form 36 whenever DOSH is notified of or learns of any potential work-related accident that is fatal to one or more employees or that results in serious injury or illness, or serious exposure, regardless of whether the event is legally reportable to DOSH.

B. Entities and Persons Required to Report Accidents

1. Employers

   Every employer shall report immediately to DOSH any serious injury or illness, or death, of an employee occurring in a place of employment or in

connection with any employment. The report shall be made by telephone or through a specified online mechanism established by DOSH for this purpose. Until DOSH has made such a mechanism available, the report may be made by telephone or email. See Title 8 of the California Code of Regulations (8 CCR) § 342(a).

DOSH has established a mailbox at caloshaaccidentreport@tel-us.com for employers to email their reports. This mailbox is monitored by DOSH compliance personnel to ensure timely review and enforcement actions.

2. Public Safety Agencies

   Whenever a state, county, or local fire or police agency responds to an accident involving an employee fatality or serious injury or illness (including pesticide-related poisoning), the responding agency must immediately report to DOSH the occurrence of the fatality or serious injury or illness. See 8 CCR § 342(b).

3. DOSH Personnel

   If compliance personnel discover during the course of any inspection or investigation from their review of the OSHA Form 300: *Log of Work-Related Injuries and Illnesses*, also known as OSHA Log 300, or through other means, that the employer failed to report to DOSH a reportable accident, compliance personnel must complete a Cal/OSHA Form 36, initiate a separate investigation into the accident and cite the employer for a failure to report violation of 8 CCR § 342(a).

   NOTE: Only one OSHA Form 1: Inspection Report must be completed when the inspection satisfies more than one type of inspection (e.g., complaint and follow up, complaint and accident, accident and follow-up) or other combinations.

II. Accident Intake

A. Notification of Accident Reports to Duty Officer of the Day

The District Manager, Senior Industrial Hygienist Supervisor and/or an authorized designee, which is herein referred to as DM/SIHS/Designee, must ensure that the compliance personnel assigned to monitor the District Office Accident Report mailbox perform the following duties:

1. Check the mailbox continuously throughout the day in 30-minute intervals, and

2. Immediately forward via email all reports received to the Duty Officer assigned for that day and copy the DM/SIHS/Designee.

B. **Completion of the Cal/OSHA Form 36: Accident Report**

The assigned Duty Officer for the day must:

1. Complete a Cal/OSHA Form 36 for each report of an accident received by phone, in-person, email, etc. on their assigned day.

2. When taking an accident report by phone or in-person, write down all information provided by the employer or person reporting the accident onto Cal/OSHA Form 36.

3. Attach any documents, photographs, emails and/or recordings received from the employer or person reporting the accident via email, letter, fax, hand delivery, etc. to Cal/OSHA Form 36.

4. Research, review and print the employer's DOSH five-year history for management review from the federal OSHA website. Print out and attach the employer's DOSH history to the Cal/OSHA Form 36.

5. Check OSHA Information System (OIS) for any closed, and active/open on-site inspections and/or off-site letter investigations. Print out and attach any of these inspections and/or investigations to the Cal/OSHA Form 36.

6. Upon completion of each accident report intake, promptly submit Cal/OSHA Form 36 along with a printout of the employer's DOSH on-site inspection history and/or off-site letter investigation history, if applicable, to the DM/SIHS/Designee for evaluation and assignment.

7. Inform the DM/SIHS/Designee by the end of day about any unresolved/incomplete accident report intakes that need to be handed over to the next Duty Officer.

NOTE: Analyst personnel can conduct the intake of accidents, but only after they have been trained on how to accurately perform such tasks and have been determined by DOSH Management, after an appropriate training period, to take accidents competently.

C. **Notification to Management of Fatalities**

The Duty Officer must immediately notify the DM/SIHS/Designee of a fatality, as defined in the *Definitions* section of this policy.

D. **How to Conduct an Accident Report Intake Interview**

1. When communicating with the employer or person reporting the accident, the Duty Officer for the day must:

    a. *Briefly describe the report intake process*: Inform the reporting party that their report on any work-related death, serious injury, illness, or exposure will be documented in the OIS. Several questions may be asked for clarification purposes.

    b. *Clearly state employer's obligation to report a work-related accident*: Inform the reporting party of their statutory obligation to report a work-related accident as clearly and thoroughly as possible.

    c. *Complete a new report form when additional information is reported*: When the reporting party who has reported an accident on an earlier date contacts DOSH at a later date to provide additional information, the Duty Officer must complete a new Cal/OSHA Form 36. The Duty Officer must retrieve the initial accident report and attach the new accident to it for management review.

    d. *Respond to inquiries/questions*: Answer any questions the employer or person reporting the accident may ask to the best of the Duty Officer's ability or knowledge and seek assistance from DM/SIHS/Designee if additional support is required to provide accurate information.

2. The assigned Duty Officer must conduct any accident report intake interview as follows:

    a. Be patient, courteous and professional.

        i. Actively listen without interruption.

        ii. *Stay calm and be empathetic*: The reporting person might be scared or traumatized.

    b. Document conversation clearly, correctly and thoroughly.

        i. *Be thorough*: Get clear and specific details. Do not assume anything.
        ii. Thoroughly, legibly and accurately record and complete the Cal/OSHA Form 36.

    c. Provide clear communication and explanation.

i. Use simple language. Do not use jargon.

ii. Ask clear, open-ended questions and follow up with specific questions to fill in gaps.

iii. Tailor questions for the industry.

iv. Provide translation and interpretation services, when necessary.

d. Avoid doing the following:

i. Do not advise the employer or person reporting the accident of an expected outcome or resolution.

ii. Do not challenge the story informed by the employer or person reporting the accident.

E. Information to Obtain and Record During an Accident Report Intake

1. Reportable Information (8 CCR § 342[c])

a. Time and date of accident

b. Employer's name, mailing address, email address, and telephone number

c. Name and job title, or badge number, of the person reporting the accident

d. Address of accident site

e. Name of person to contact at accident site

f. Name and address of injured employee(s)

g. Nature of injuries

h. Location where injured employee(s) was/were taken for medical treatment

i. List and identity of other law enforcement agencies present at the accident site

j. Description of accident and whether the accident scene or instrumentality has been altered. A factual description of what happened, i.e., sequence of events that had happened.

2. Additional Information to Gather from Reporting Party

When compliance personnel complete a Cal/OSHA Form 36, they must attempt to gather the following additional information, as appropriate:

a. Date of birth of the injured, ill or deceased employee(s)

b. Occupation of the injured, ill or deceased employee(s)

c. Name and address of witnesses to the accident

d. Name and job title of the injured, ill or deceased employee's/employees' supervisor

e. Hours of operation of the business where the accident occurred

f. Whether or not the report was made on behalf of the employer

g. Identity of any state, county or local public safety agency present at the accident site other than a law enforcement agency

h. Family contact information about fatality accidents

i. Any photos were taken

j. Name and contact information of any witnesses, who saw what happened or had information before the event happened

k. Whether the person reports the accident is a witness: Get a brief account on what the reporting person knows while the details are fresh.

III. Accident Report Evaluation and Assignment

All accidents must be evaluated by DM/SIHS/Designee as follows:

- Evaluate each accident and other available information, and exercise professional judgment to decide if an investigation, a referral to another agency, or no enforcement action is warranted/required.

- Thoroughly document in detail on the Cal/OSHA Form 36 the reasoning for situations where no investigation will be conducted and ensure that the information is entered in the OIS.

- Complete the evaluation section of the Cal/OSHA Form 36 and provide the completed Cal/OSHA Form 36 to the administrative support team for OIS data entry and distribution to field staff for an on-site inspection assignment.

- Promptly consult with respective Regional Manager (RM) when determining that there are no resources available to timely initiate an on-site inspection of an accident.

A. **Processing Health and Safety Accident Reports**

1. Health accident reports must be sent to the SIHS/Designee and safety accident reports to the DM/Designee for evaluation and determination of what action(s) needs to be taken.

2. When an accident report involves both safety and health hazards, it must be sent to the DM/Designee and SIHS/Designee, who must work together to evaluate the accident report and determine what action(s) to take.

NOTE: District Offices without SIHS shall collaborate with Regional Senior Industrial Hygienist to assess and address health-related accidents.

B. **Accident Report Investigation Response Time**

1. **Non-Fatality Investigation**

   The investigation of an accident report that does not involve an employee fatality must be initiated and completed within a reasonable time after receipt of the report.

2. **Fatality Investigation**

   Every reasonable effort must be made to open an investigation into employee fatality **immediately** after the report has been received by

DOSH, or **within eight (8) hours thereafter**, if an immediate response is not feasible.

In no case shall a fatality accident investigation be initiated more than twenty-four (24) hours following receipt of the report.

***Expedite Fatality Investigation*:**

When a local prosecutor requests that DOSH expedite a fatality accident investigation, the DM/SIHS/Designee and Regional Manager must take a reasonable effort to ensure that the investigation is completed (i.e., a Closing Conference is conducted, and citations, if any, are issued) within ninety (90) days from the date the workplace inspection is commenced.

C. Determining Whether to Conduct an On-site Inspection or No Inspection

1. On-site Accident Inspection

Under certain circumstances such as, but not limited to, those described below, an on-site inspection must be performed.

Basis for an on-site inspection:

a. Accident resulting in a fatality, serious injury or illness, serious exposure or pesticide poisoning.

b. Outdoor/Indoor suspected and confirmed heat-related illness (see DOSH's Heat Special Emphasis Program [SEP]).

c. Heart Attacks, Natural Causes, Drug Overdoses

DM/SIHS/Designee must evaluate fatalities that occur in the workplace that are allegedly due to heart attacks, other natural causes or possible drug overdoses. DM/SIHS/Designee must determine what contributed to the death (electrical shock, falling objects, hazardous atmospheres, poison, a victim's location or activities).

If an inspection is assigned, a death certificate or autopsy report shall be obtained to confirm the death was attributed to natural causes or a drug overdose. If the death was due to one of these causes and was not work-related, the fatality investigation may be concluded provided

that the search for contributing factors has been performed. However, hazards discovered during the investigation must still be cited.

d. Traffic Accidents, Homicides/Suicides, Aircraft Crashes

In some circumstances such as traffic accidents that occur on public roadways during the performance of work duties, or homicides/suicides at a worksite, a law enforcement agency is the primary investigator. The National Transportation Safety Board (NTSB) is the primary investigator of aircraft crashes.

DM/SIHS/Designee must obtain information about the circumstances of these types of incidents from the investigating agency (contact with the State Patrol or other investigating officer, or a copy of the law enforcement or NTSB report) and consult with DOSH Legal Unit to decide whether a DOSH inspection is necessary.

NOTE: Vehicle accidents that occur at an employer's worksite would not be considered "traffic accidents" and must be investigated.

2. **No Inspection**

Basis for no inspection:

a. No employer-employee relationship exists.

b. DOSH has no jurisdiction.

i. The DM/SIHS/Designee must first consult with the Regional Manager to determine that jurisdiction does not exist over the accident, injury, or illness reported.

ii. If both the DM/SIHS/Designee and Regional Manager cannot resolve the jurisdictional question, the Regional Manager must then consult with the Legal Unit, where a final determination must be reached.

c. The fatality, injury, illness or exposure was not work-related.

3. **Discretionary Accident Investigation**

At the discretion of the Chief, DOSH may investigate the causes of any other type of accident or occupational illness which occurs within the state in any employment or place of employment, or which directly or indirectly arises from or is connected with the maintenance or operation of the employment, or the place of employment, and shall issue any orders necessary to eliminate the causes and to prevent reoccurrence of the accident. See Labor Code § 6313(b).

D. **Assigning Accident Report to Compliance Personnel for On-site Inspection**

1. DM/SIHS/Designee is required to promptly assign an accident report designated for an on-site inspection to a Safety Engineer and/or an Industrial Hygienist, including specifying the timeframe within which the on-site inspection must commence.

   NOTE: When DM/SIHS/Designee determines they do not have the resources available to timely conduct an on-site inspection in response to the accident, they must notify their Regional Manager, who must identify if there are additional resources within the region.

   If no additional resources are available within the region, the Regional Manager must work with the Assistant Deputy Chief of Field Enforcement on a plan of action. DM/SIHS/Designee must implement the option(s) authorized by the Regional Manager and approved by Assistant Deputy Chief of Field Enforcement.

2. Compliance personnel assigned an accident report for an on-site inspection must follow all applicable procedures set forth in the compliance policy and procedures manual and directives based on the nature of the accident.

E. **Transferring an Accident Report to Another DOSH Office**

1. If the DM/SIHS/Desginee receive, through the Duty Officer of the day, an accident report that is not within their geographic jurisdiction, they must complete the Cal/OSHA Form 36 and have the Duty Officer or the District Office personnel call the District Office manager(s) with jurisdiction and send the completed Cal/OSHA Form 36 to that District Office.

2. Duty Officer/District Office personnel assigned the task to notify the other District Office must note on Cal/OSHA Form 36 the staff with whom they

spoke and the means by which the notification was provided to the District Office with jurisdiction to investigate the accident.

IV. Data Entry, Distribution and Filing of Cal/OSHA Form 36: *Accident Report*

A. DM/SIHS/Designee must provide all completed and signed Cal/OSHA Form 36 to the Enforcement Administrative Support Personnel (EASP) for data entry, distribution and filing.

B. **Data Entry, Distribution and Filing of Cal/OSHA Form 36: *Accident Report***

The Enforcement Administrative Support Personnel must:

1. Review the Cal/OSHA Form 36 for completeness and management or designee signature indicating review and approval to enter information in the OIS.

2. Enter the information recorded on each Cal/OSHA Form 36 in the OIS and record the tracking number generated by OIS onto the Cal/OSHA Form 36.

3. If an on-site inspection of the event reported is planned, make a copy of the Cal/OSHA Form 36 and any attached documents. Provide the original Cal/OSHA Form 36 and any attachments to the compliance personnel recorded on the Cal/OSHA Form 36. Place the copied Cal/OSHA Form 36 and attached documents, if any, in the Accident Chron. Notebook. Also, email a copy of all Cal/OSHA Form 36 reporting a serious injury, illness, or exposure and assigned for an on-site inspection to the Manager of the Bureau of Investigation (BOI) Unit on the first Monday of every month, copying the DM/SIHS/Designee.

4. If no inspection is planned, file the original Cal/OSHA Form 36 and any attached documents in the Accident Chron. Notebook.

5. Email a copy of all Cal/OSHA Form 36 reporting a fatality to the Manager of the Census of Fatal Occupational Injuries (CFOI) Unit on the first Monday of every month, copying the DM/SIHS/Designee.

6. Email a copy of any Cal/OSHA Form 36 reporting a fatality amended by the DM/SIHS/Designee to the CFOI Unit Manager on the first Monday of every month, copying the DM/SIHS/Designee.

NOTE: The Accident Chron. Notebook must be kept in a secure location and access thereto must be limited to appropriate personnel as designated by the DM/SIHS/Designee.

C. **Subsequent Accident Report(s) Concerning the Same Accident Event(s)**

1. If an investigation of an event reported in a Cal/OSHA Form 36 has been assigned and a subsequent Cal/OSHA Form 36 concerning the same event is received by the District Office, EASP must:

    a. Enter the information recorded on the Cal/OSHA Form 36 in the OIS and record the Unprogrammed Activity (UPA) tracking number generated by OIS onto the Cal/OSHA Form 36.

    b. Give the subsequent Cal/OSHA Form 36 to the compliance personnel assigned to investigate the reported event; and

    c. File a copy of the initial and subsequent Cal/OSHA Form 36 and any attachments in the Office Accident Chron. File.

        NOTE: The Accident Chron. File shall be kept in a secure location and access thereto must be limited to appropriate personnel as designated by the DM/SIHS/Designee.

2. If an investigation of an event reported in a Cal/OSHA Form 36 has not been planned but upon review of a subsequent Cal/OSHA Form 36 concerning the same event the DM/SIHS/Designee decides to plan an investigation, EASP must:

    a. Give the initial and subsequent Cal/OSHA Form 36 (original documents) to the compliance personnel assigned to investigate the reported event, and

    b. File a copy of the initial and subsequent Cal/OSHA Form 36 together in the Office Accident Chron. File.

V. Notifications of Work-Related Fatalities

A. Bureau of Investigations Notification

DM/SIHS/Designee and/or compliance personnel assigned to conduct an on-site inspection of an accident reporting a fatality must:

1. Immediately notify the BOI Supervising Special Investigator by telephone of the accident site location, and

2. Immediately email the Cal/OSHA Form 36 to the BOI Supervising Special Investigator.

B. DOSH Heat Program Coordinator

DM/SIHS/Designee and/or compliance personnel assigned to conduct an on-site inspection of an accident reporting a heat-related or suspect heat-related fatality or serious injury or illness shall without delay notify the Enforcement Heat Program Coordinator by emailing a copy of the Cal/OSHA Form 36.

VI. Regional Weekly and Monthly Audit Reports

A. Regional Office Enforcement Administrative Support Personnel (RO-EASP) must generate and submit **a bi-weekly fatality report** to the Regional Manager (RM) for review. The report must be grouped by district offices and contain the following information: List of fatalities received; date of the fatality; inspection planned; opening conference date; assigned compliance personnel; event description; and number of days case opened; etc.

B. Upon the Regional Manager approval, the RO-EASP must email the report to the BOI Unit Manager and copy the Assistant Deputy Chief of Enforcement, and Regional Manager bi-weekly.