



## How to Conduct an Effective Post-Accident Investigation

- Slides and resources: [staffingworld.net/materials2018](http://staffingworld.net/materials2018)
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 American Staffing Association



**Nicholas DeJesse**  
Assistant Regional Administrator, Cooperative  
and State Programs  
Occupational Safety and Health Administration  
Region III



**Brent Clark, Esq.**  
Partner  
Seyfarth Shaw LLP

 American Staffing Association

**Nicholas DeJesse**  
Assistant Regional Administrator  
OSHA Region III  
[DeJesse.Nicholas@dol.gov](mailto:DeJesse.Nicholas@dol.gov)  
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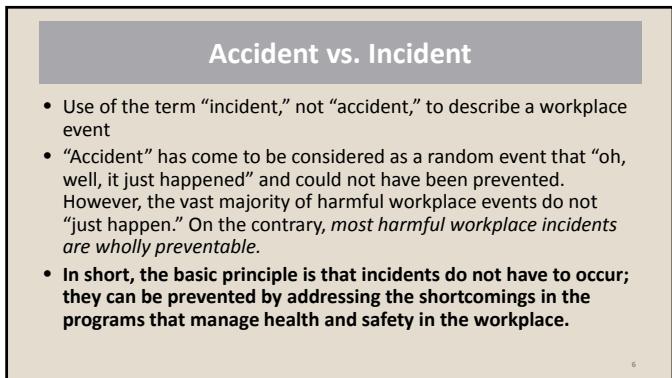
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## Language of Incident Investigation

### Incident

A work-related event in which an injury or ill-health (regardless of severity) or fatality occurred, or could have occurred.

### Root Causes

The underlying reasons why unsafe conditions exist or if a procedure or safety rule was not followed in a workplace. Root causes generally reflect management, design, planning, organizational or operational failings (e.g., a damaged guard had not been repaired; failure to use the guard was routinely overlooked by supervisors to ensure the speed of production).

### Close Call

An incident that could have caused serious injury or illness but did not; also called a "near miss."

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## Value of Incident Investigations

- Prevent injuries and illnesses
- Save lives
- Save money
- Demonstrate commitment to health and safety
- Promote positive workplace morale
- Improve management

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## Prevention = Save Lives

- Investigations are incident-prevention tools and should be an integral part of an occupational safety and health management program in a workplace
- When done correctly, an effective incident investigation uncovers the root causes of the incident or 'close call' that were the underlying factors
- Most important, investigations can prevent future incidents if appropriate actions are taken to correct the root causes discovered by the investigation

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## Save Money

On average, preventing a:

- Workplace injury can save \$39,000
- Fatality can save more than \$1.4 million

*OSHA is a resource for the Business Case for Safety and Health, visit the OSHA website to learn more:*

<https://www.osha.gov/dcsp/products/topics/businesscase/costs.html>



SAFETY AND HEALTH TOPICS  
Business Case for Safety and Health  
Costs Benefits Resources Design for Safety Additional Information Safety and Health Topics  
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## What do Incidents Cost a Company?



Unseen costs can sink the ship!

Direct - Insured Costs Just the tip of the iceberg

Indirect - Uninsured, Hidden Costs - Out of Pocket

Examples:

1. Lost time by fellow employees and supervisor.
2. Investigation of incident.
3. Schedule delays.
4. Legal fees.
5. Training costs for new/replacement workers.
6. Damage to tools and equipment.
7. Lower morale.
8. Increased absenteeism.
9. Poorer customer relations.
10. Others?

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## Practice Scenario

• During a safety inspection, you notice that an elevated platform area in a warehouse does not have a proper guardrail. You note that several workers work on the platform each day, and a well-used walkway passes directly under the platform.

• **Determine the costs:**

- Estimate direct and indirect costs for the most likely resulting injury/illness if corrective actions are not taken
- Briefly list what factors you considered in arriving at your estimate in each area

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## Determine Total Cost

To calculate **Direct Cost** of the **Most likely injury**: *Fall to lower level*  
**Total value of the insurance claim for injury or illness \$40,043**

To calculate **Indirect Cost**, multiply direct cost by a cost multiplier.  
The cost multiplier that you will use will depend on the size of the direct cost.

Direct Cost	Cost Multiplier
\$0 - \$2,999	4.5
\$3,000 - \$4,999	1.6
\$5,000 - \$9,999	1.2
\$10,000 or more	1.1

*Direct Cost \$40,043 X 1.1 = \$44,047 Indirect Cost*

**TOTAL = \$84,090**

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# Employer Responsibilities

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The diagram illustrates the components of an investigation plan:

- WHO**:
  - Who to notify
  - Who contacts police, fire, etc.
  - Who conducts investigation
  - Who receives/acts on reports
- WHEN**:
  - Timetables for investigation and follow-up
- HOW**:
  - Requirements to conduct investigator training

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## Promote Positive Workplace

- Focus on the root causes, not blame or fault
- Although a supervisor sometimes conducts incident investigations, they should be conducted by a team
- Working together will also encourage all parties to “own” the conclusions and recommendations and to jointly ensure that corrective actions are implemented in a timely manner
- These approaches improve management as well

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A SYSTEMS APPROACH TO HELP PREVENT INJURIES AND ILLNESSES

## THE 4-STEP INCIDENT INVESTIGATION PROCESS

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## Systems Approach

- A systems approach always looks beyond the immediate causes of the incident

### Example:

If a worker suffers an amputation on a table saw, the investigator would ask questions such as:

- Was the machine adequately guarded? If not, why not?
- Was the guard damaged or non-functional? If so, why hadn't it been fixed?
- Did the guard design get in the way of the work?
- Had the employee been trained properly in the procedures to do the job safely?

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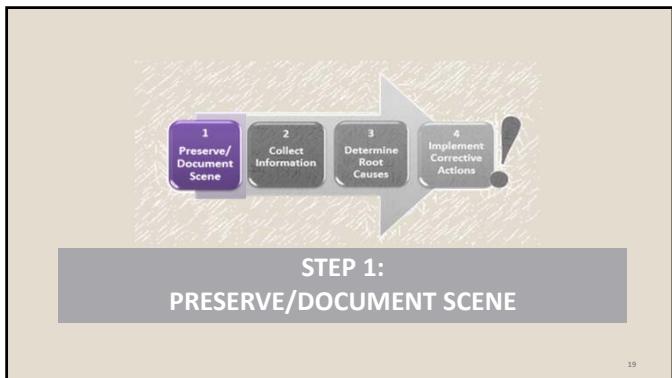
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### Preserve/Document Scene

Begin the investigation immediately or as soon as possible to help ensure material evidence and memory are more reliable and stable because:

- **Material Evidence** – Such as tools and equipment can move or disappear from the scene
- **Memory** – As time passes, conversations with others and individual emotions distort witnesses' memories of what they actually saw and heard

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### Preserve the Scene

Most effective method:

- The scene may be corded, taped off, guarded, etc.
- Make sure any hazardous situations are controlled before continuing the investigation

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**1  
Preserve/  
Document  
Scene**

## Document the Scene

Document the incident scene:

- Personal observation; use Video
- Initial statements; use Sketches
- Photos; use Paperwork



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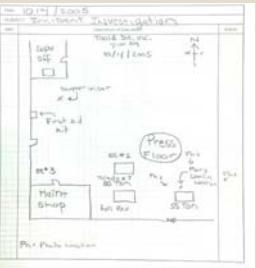
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**1  
Preserve/  
Document  
Scene**

## Practice: Example Sketch

*Sketch the  
Scene  
Techniques*



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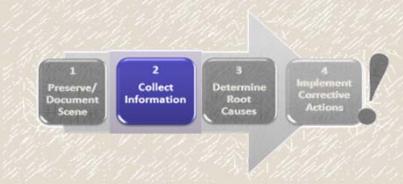
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**STEP 2:  
COLLECT INFORMATION**

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## Collect Information

- Once the scene is preserved and documented it is important to start digging for details and collecting information
- Incident information is collected through interviews, document reviews and other means
- Interviewing doesn't stop at just asking questions, there are "Why?" and follow-up questions that need to be asked
- Information can be obtained from people and documents/reports

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## Information Sources

- Interviews
- Equipment manuals
- Industry guidance documents
- Company policies and records
- Maintenance schedules, records and logs
- Training records
- Audit and follow-up reports
- Enforcement policies and records
- Previous corrective action recommendations

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## Interview Preparation

### Discussion of responses to following questions:

- Who should be interviewed? Why?
- When is it best to interview? Why?
- Where should the interview be conducted?
- When shouldn't interviews be conducted?

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**Interview Tips**

2  
Collect  
Information

- Build rapport
- Communicate clearly
- Ask them to recount their version of the incident
- Allow the interviewee to complete their statements
- Repeat questions and answers for clarity
- Ask follow-up questions

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**Interview Techniques**

2  
Collect  
Information

- Take notes
- Keep in mind the focus is determining root causes of the incident
- Put the person at ease
- Ask open-ended questions
- Let the individual talk
- Repeat the facts & sequence of events back to the person

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**STEP 3:**  
**DETERMINE ROOT CAUSES**

1  
Preserve/  
Document  
Scene

2  
Collect  
Information

3  
Determine  
Root  
Causes

4  
Implement  
Corrective  
Actions

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**3 Determine Root Causes**

## Philosophy of Root Cause Analysis

- Each problem is an opportunity (“golden nugget”) because it can tell a story about why and how it occurred.
- It is critical that everyone take a personal and active role in improving quality.
- The “*true*” problem must be understood *before* action is taken.
  - Problems are often masked for a variety of reasons
- To do this well, we must be
  - Both focused and open-minded
  - Both patient and quick
  - Above all, we must be *relentless*



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**3 Determine Root Causes**

## Symptom Approach vs. Root Cause

➤ If we do a poor job of identifying the root causes of our problems, we will waste time and resources putting bandaids on the *symptoms* of the problem.

Symptom Approach	Root Cause
<ul style="list-style-type: none"> <li>Errors are often a result of worker carelessness.</li> <li>We don't have the time or resources to really get to the bottom of this problem.</li> <li>We need to train and motivate workers to be more careful.</li> </ul>	<ul style="list-style-type: none"> <li>Errors are the result of defects in the system. People are only part of the process.</li> <li>We need to find out why this is happening, and implement mistake-proofing so it won't happen again.</li> <li>This is critical. We need to fix it for good, or it will come back and burn us.</li> </ul>

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**3 Determine Root Causes**

## How do we do Root Cause Analysis

Said simply, Root Cause Analysis is asking *why* the problem occurred, and then continuing to ask why *that* happened until we reach the fundamental process element that failed.



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3 Determine Root Causes

## Tools Used in Root Cause Analysis

Tools Used in Root Cause Analysis

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1 Preserve/ Document Scene

2 Collect Information

3 Determine Root Causes

4 Implement Corrective Actions!

## STEP 4: IMPLEMENT CORRECTIVE ACTIONS

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4 Implement Corrective Actions

## Control Strategies

- Engineering Controls
- Administrative Controls [aka Work Practice Controls]
- Personal Protective Equipment

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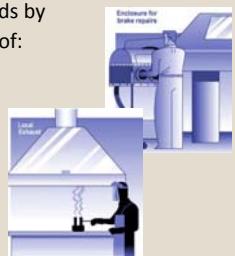
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4  
Implement  
Corrective  
Actions

## Engineering Controls

Eliminate/reduce hazards by applying the principles of:

- Removal
- Substitution
- Enclosure
- Barriers or local ventilation



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4  
Implement  
Corrective  
Actions

## Administrative Controls

- Any procedure that significantly limits daily exposure by manipulation of the work schedule or altering the organization of accomplishing the work is considered an administrative control
- These are also known as work practice controls
- An example is: Scheduling



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4  
Implement  
Corrective  
Actions

## Personal Protective Equipment

PPE covers such items as:

- Face shields (whether worn by dentists or welders), safety glasses and goggles
- Steel-toed shoes and boots
- Hard hats
- Harnesses
- Leather aprons or metal-mesh gloves
- Forearm guards, knee guards
- Hearing protectors
- Respirators



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# Fix the System

Use Safety and Health Management System Strategies – policies, programs, plans, processes, procedures to address:

- Management Leadership & Employee Involvement
  - Worksite Analysis
  - Hazard Prevention & Control
  - Safety & Health Training
  - Program evaluation and Improvement
  - Communication and Coordination
    - Host employers, Contractors, and Staffing Agencies



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## Justify Recommendations



### **Begin with Total Cost**

- Recall from earlier the total direct and indirect costs of an incident
  - A benefit to implementing corrective actions is the Return on Investment (ROI)



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**4 Implement Corrective Actions**

## Next, Total Investment

**Incident to Prevent is Fall to lower level**

- The corrective action selected is to install a guardrail
- Calculate the total investment cost (add corrective actions and system improvements)

✓ Total direct/indirect cost:  
\$84,090

✓ **Total investment (purchase and install guardrail):  
\$1,500**

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**4 Implement Corrective Actions**

## Practice

COST	RETURN ON INVESTMENT
Total Cost minus Total Investment	Cost divided by Total Investment
<b>\$84,090</b> - <b>1,500</b> <b>\$82,590</b>	<b>\$82,590</b> <b>\$ 1,500</b> <b>=55.06</b> <b>5506%</b>

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## Small Business Resources On-Site Consultation Services

Every state has an OSHA Consultation Program, run by state employees (OSH Act of 1970);

MISSION - Provide small businesses with FREE, Confidential, onsite safety and health assistance

- Industrial Hygiene Sampling
- Safety visits
- Establish Safety and Health Program

State Consultants are highly trained

- Receive same classes as federal OSHA

Consultants review only areas that employer wants, limited or full scope

<https://www.osha.gov/dcsp/smallbusiness/consult.html>

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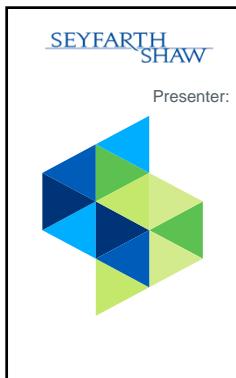
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## Program Objectives

- Discuss OSHA enforcement initiatives and trends.
- New penalty and liability policies.
- How to reduce the risk of OSHA citations.
- How to manage an OSHA inspection.

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## OSHA Enforcement Agendas, Defenses and Inspections

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## OSHA Liability

- Initially, employer responsible for its own employees
- Employer had to ensure that its employees were protected against:
  - "Recognized Hazards" To Employee Safety and Health (General Duty Clause)
  - Hazards Identified In Specific Regulations
    - (29 CFR 1926, e.g. falls, electrical, lead, silica, etc.) (Construction Industry)
    - (29 CFR 1910, e.g. forklifts, confined space, noise, etc.) (General Industry)

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## OSHA Liability

- Liability was expanded under "Multi-Employer Workplace Doctrine"
- Now, each Employer is potentially responsible for the safety and health of another Employer's Employee, if the Employer:
  - Creates the hazard
  - Exposes an Employee to the Hazard
  - Is responsible to correct the hazard, or
  - Is the controlling Employee on the site
- Liability can involve citations (against Employer) and criminal prosecution (against Employer and Management Representatives)

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## Many Different Categories of Employers and Employees On-Site

- Owner
- General Contractor
- Subcontractors
- Leased/Borrowed Employees
- Temporary Employees
- Consultants

Key: OSHA is looking at the workplace as a whole – so should you.

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## Many Different Categories of Employers and Employees On-Site

Critical Issues:

- Contractual relationship – must define responsibility for safety and health compliance, employee training, personal protective equipment.
- Do not exercise control over “means and methods” of performing work by independent contractor employees or temporary employees if staffing service has on-site supervision
- Imminent Danger – Host employer must stop work immediately if any employee in imminent danger of injury.

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## Aggressive Enforcement

- Use of interpreters
- Emphasis on repeat citations
- Cautionary tale:
  - Use of knowledge of previous inspection to justify willful citation
- Requests for Root Cause analysis and company insurance audits
- Severe Violator Enforcement Program
- Revised Penalty Policy
- Non-English speaking employees
- Recordkeeping/Ergonomics/Dust/Live Electrical Work
- Issuance of Revised Recordkeeping Rules
- Fall Protection – Walking/Working Surfaces

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## Aggressive Enforcement

- Employee by Employee Citations
  - PPE Standard – employee failure to use personal protective equipment
  - LOTO procedures – Lockout/tagout procedure not compliant or employees not trained
- Enhanced Use of General Duty Clause
  - Combustible Dust
  - Ergonomics
  - Workplace Violence
  - New chemicals (not listed on Z tables)
  - Arc Flash – Arc Blast
  - Heat Illness – Cold Exposure
  - Avoidance of PELs in Existing Regulations

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## **Revised Recordkeeping Rule**

- Rule will potentially impact employer policies relating to:
    - requirement to timely report injuries or illnesses to employer
    - incentive program metric based on recordable injury or illness (DART rate)
    - post-accident mandatory drug testing

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## Employee Literacy Challenges

- OSHA inspections revealing increasing lack of Employee Literacy
  - Employees don't "understand" training
  - English Speaking employees are unable to read safety and health programs
  - OSHA challenges the particular language in safety programs
  - Employers are rewriting safety programs to level of fourth grade educational comprehension
  - Employers utilize more visual aids such as pictograms

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## Native Language Requirements

All training must be given in a language that the employee understands

- Certain OSHA regulations require "training," others require Employer to prove training was "effective" or "understood"
  - OSHA will look at how employer provides work instructions to employees and whether it is different than safety training (e.g. safety training in English but supervisor gives work instructions in Spanish).
  - OSHA will interview employees to determine whether they understand English only training (e.g. if employee cannot speak English but all training documents are English only, you have a problem).
  - Employers must determine whether employees are literate
  - Bilingual trainers and documentation may be required to prove training was compliant.

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## Revised Penalty Structure

- OSHA penalties increased to Consumer Price Index (CPI)

	Maximum - January 1, 2017	January 1, 2018
• Other Than Serious	\$12,675	\$12,934
• Serious	\$12,675	\$12,934
• Willful	\$126,749	\$129,336
• Repeat	\$126,749	\$129,336
• Failure to Abate	\$12,675 per day	\$12,934 per day

- Will be revised every following year

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## Criminal Law Liability

**OSHA**

- Potential liability if:
  - Fatality
  - Violation of specific regulation
  - Violation was willful, and
  - Violation caused fatality
- Penalty
  - 6 months imprisonment, and/or
  - \$500,000 fine per fatality for employer
  - \$250,000 fine per fatality for individual

**NOTE: No Miranda Warnings Necessary**

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## Criminal Law Liability

**OSHA – Additional Potential Criminal Liability**

- Obstruction of justice for interfering with inspection
- Falsification of records
- Lying to federal inspector

**STATE LAW**

- Murder
- Manslaughter
- Reckless Endangerment
- Battery
- Liability for Employer and Manager

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## Unavoidable Employee Misconduct

- More important than ever to establish strong *unavoidable* employee misconduct defense.
- All four elements required
  - (1) Program for the specific hazard, e.g. fall, electrical, lead, asbestos, cadmium, forklift
  - (2) Employee training (documentation)
  - (3) Prior enforcement (disciplinary records)
  - (4) No reasonable opportunity for supervisor to identify and correct hazard.

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## Unavoidable Employee Misconduct

- How do we establish this defense?
  - A good hazard assessment
  - Training—there may be a cultural, literacy or language barrier.
  - Need to use translators, interpreters.
  - Need enforcement – this is where most employers fail.
  - Maintain records of enforcement/discipline.

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## Whistleblower Laws

- Potential Employer Liability If:
  - Employee engages in "Protected Activity" (e.g., makes complaint about safety or health violation to Employer; files complaint with OSHA; participates in OSHA inspection), and
  - Employee Suffers "Adverse Action" (e.g., termination, discipline, loss of benefits), and
  - Employer takes Adverse Action and Retaliates against Employee because of Protected Activity

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## Whistleblower Laws

- Potential Employer Liability If:

- Employee may File 11(c) Complaint with OSHA seeking damages
- Potential liability of Employer
- Personal liability of Manager
- OSHA will investigate complaint
- If OSHA finds reasonable cause that there was retaliation, case may be filed in Federal Court
- All States have Whistleblower Laws that may apply

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## How to Reduce the Risk of OSHA Citations

- Focus on hazards that are at core of your business.
- Focus on hazards that are driving your OSHA recordables.

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## Responding to OSHA Communications

- Rapid Response Investigation (RRI)
- Employee Complaint Letters
- Avoiding Admissions of Civil or Criminal Liability (waiver of Fifth Amendment rights) in Responses

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## General Recommendations

- Be Truthful
- Keep Responses Simple and Short
- Answer the Question Asked
- Avoid Speculation
- Seek Advice from Experienced OSHA Counsel

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## Revised Reporting Obligations



- Under Federal system, all fatalities, including those caused by heart attack, must be reported to OSHA within 8 hours. State Plans can be more restrictive.
- Under Federal system, all workplace incidents that result in hospitalization for treatment, an amputation or loss of any eye must be reported to OSHA within 24 hours of the incident. State Plans can be more restrictive.
- Employer not required to report fatalities or injuries occurring on public highways. Employer may have DOT required reporting depending on nature of accident or injuries.
- Employer required to report if accident occurs on property owned or controlled by Employer.
- Employer only required to report for employees that it controls, not for (a) third party independent contractor employees or (b) temporary employees if temporary staffing company has on-site supervision for temporary employees.

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**U.S. Department of Labor**      **Occupational Safety and Health Administration**  
 Baton Rouge Area Office      9100 Bluebonnet Center Blvd. Suite 201  
 Baton Rouge, LA 70809      Phone: (225) 298-5458 Fax: (225) 298-5457  
[osha.dol.gov/rls](http://osha.dol.gov/rls)

May 9, 2017

RE: OSHA Activity No. \_\_\_\_\_  
 Dear \_\_\_\_\_

This letter is to follow up the conversation we had on UNKNOWN in reference to the employee injury that occurred on May 08, 2017 at your worksite. As we discussed, there are some important steps you should be taking to ensure the safety of your workers and avoid the need for an OSHA inspection.

In most cases, a serious injury indicates the presence of workplace hazards that threaten the health and safety of other workers. OSHA will inspect your facility to determine if employees at your worksite are at risk of being injured. As we discussed, it is in everyone's interest that you conduct a thorough investigation to determine the reasons for the work related incident, to identify hazards related to the incident and to implement corrective actions.

Please complete each of the following by May 16, 2017:

Conduct an incident investigation. (See Non-Mandatory Investigative Tool — Attachment A)

Provide OSHA with written, signed documentation of findings from the investigation.

Provide OSHA with written, signed abatement certification documenting action taken to correct hazards related to the incident.

Document findings and send corrective actions to (225) 298-5457 or [oshabaton@osha.dol.gov](mailto:oshabaton@osha.dol.gov).

Post a copy of this letter in a conspicuous place where all affected employees will have notice or near the location where the incident occurred.

Fax or email a copy of the signed Certificate of Posting (Attachment B) to (225) 298-5457 or [oshabaton@osha.dol.gov](mailto:oshabaton@osha.dol.gov).

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If you have a problem meeting this deadline or have any further questions, please call me.

If we do not receive the investigation results, statement verification and certificate of posting by **May 16, 2017**, your website may be considered for an on-site inspection.

The goal of your incident investigation will be to identify both the immediate and the underlying causes of the incident. To assist you in conducting an investigation, I have attached a guide for your use, to ensure your employees are protected from future injuries. Additional resources are available at OSHA's Safety and Health Topics website at [www.osha.gov/SLTC/etools/001/investigation/guide.html](http://www.osha.gov/SLTC/etools/001/investigation/guide.html) to assist you with conducting an Incident Investigation.

After correcting any workplace hazards, small and medium-sized businesses may be interested in receiving free, confidential assistance from OSHA's On-Site Consultation Program. Consultants from a state agency or university will work with you to identify workplace hazards, provide advice on how to correct them, and help you establish a safety and health management program. These services are separate from enforcement and do not result in penalties or citations. To find out more information about OSHA's On-Site Consultation Program, please visit the website at [www.osha.gov/SLTC/etools/001/investigation/onsite.html](http://www.osha.gov/SLTC/etools/001/investigation/onsite.html) or contact OSHA's Office Contact Information to reach your local On-Site Consultation office. Also, please find a copy of OSHA pamphlet, **TREE! Safety and Health Consultation Services**, for your use in [§ 1904.4\(a\)](#).

Please remember that it is illegal for employers to retaliate or discriminate in any way against an employee for raising safety and health issues or for exercising their rights under the OSHA law. This includes the right to report a work-related injury or illness to their employer, or to contact OSHA. More information about the Whistleblower Protection Program can be found at <http://www.osha.gov/whistleblowers.gov>.

If you have any questions, please call me at (225) 298-5458 or email me at [pshumanresources@doj.gov](mailto:pshumanresources@doj.gov). Your support and interest in the safety and health of our employees is appreciated.

Sincerely,

  
Dorothy F. Price  
Area Director

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"Attachment A"  
**NON-MANDATORY INVESTIGATIVE TOOL**

<b>ESTABLISHMENT INFORMATION</b>	
1) Name of Investigator:	_____
2) Job Title:	_____
3) Name of Company:	_____
4) Address:	_____
5) Contact Phone:	_____
6) Fax:	_____
7) E-Mail:	_____
8) NAICS:	_____
9) How many Employees at: a) Work site: _____ b) All Locations: _____	
10) Union: Yes: _____ No: _____	
11) Union Name and Contact Info:	_____
<b>INJURED EMPLOYEE INFORMATION</b>	
1) Injured Employee Name:	_____
2) Age: _____	
3) Gender: Male: _____ Female: _____	
(For additional employees, see continuation section at end of form.)	
4) Employee Type/Job Title:	_____
5) Shift: _____	
6) Type of Employment (check all that apply):	<input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Seasonal <input type="checkbox"/> Temporary <input type="checkbox"/> Other: _____
7) Months Employed with the Company:	_____
8) Amount of time in current position at time of incident:	_____
9) Nature of Injury:	_____
10) Part of Body:	_____
<b>INCIDENT INVESTIGATION</b>	
1) Date and time of the incident:	_____
2) Location of incident:	_____

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3) What was the employee doing just before the incident occurred? **Instructions:** Describe the activity(s) leading to the tools, equipment, or location where the injury occurred. Be specific. Example: "Cleaning a filter" or "Working on a conveyor belt." Check one of the following:  "Injury occurred while performing my job duties" or  "Injury occurred during my break."

4) What Happened? **Instructions:** Provide a detailed description of the incident and the injury received. Provide details such as measurements, sequence of events, equipment, PPE, tool dimensions, the type of substance/chemical used, amount of time spent working with the substance, Example: "Employee was working on a conveyor belt when he slipped and fell onto the PPE." \_\_\_\_\_

5) What was the injury or illness? **Instructions:** Describe the part of the body that was affected and how it was affected. Be more specific than "hand", "shoulder" or "arm". Examples: "Fractured vertebrae" and "chemical burn to the eye". \_\_\_\_\_

6) What object or substance directly harmed the employee? **Instructions:** Provide the type, brand name, and quantity of the object or substance that caused the injury. Example: "Hand and arm were cut by a metal pipe." \_\_\_\_\_

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<p><b>A. WHAT CAUSED OR ALLOWED THIS INCIDENT TO HAPPEN?</b></p> <p><i>Instructions: What were the underlying reasons the incident occurred – and are the factors that need to be addressed to prevent similar incidents from occurring in the future? If a machine was faulty or a safety device failed, why did it fail? It is common for find factors to be common across multiple incidents. If you identify these factors, try to determine why these factors were not addressed before the incident.</i></p>	<hr/> <hr/> <hr/> <hr/> <hr/>
<p><b>B. CORRECTIVE ACTIONS TAKEN TO PREVENT FUTURE INCIDENTS</b></p> <p><i>1) Hazardous condition(s) identified and corrective action taken by employer. Instructions: Describe the immediate measures taken, interim and/or long-term actions necessary to correct hazardous conditions. Also, are the actions being taken to ensure the completion of full-time corrective action and all findings are closed out when the investigation is completed.</i></p>	<hr/> <hr/> <hr/> <hr/> <hr/>

<p>U.S. Department of Labor Marlton Area Office Marlton Area Office Building 2, Suite 120 100 Route 73 South Phone: (356) 596-5200 Fax: (356) 596-5201 <a href="http://www.osha.gov">http://www.osha.gov</a></p> <p>May 9, 2017</p> <p>RE: OSHA Complaint No.:</p> <p><b>Dear:</b></p> <p>On May 5, 2017 the Occupational Safety and Health Administration (OSHA) received a notice of alleged workplace hazard(s) at your worksite at:</p> <p>We advised you, by telephone, of these alleged hazards on May 9, 2017. The specific nature of the alleged hazards are as follows:</p> <ul style="list-style-type: none"> <li>• Employees are allegedly experiencing headaches, nausea, etc. as a result of exposure to several industrial tools being operated in a poorly vented environment.</li> <li>• Employees are allegedly exposed to slip and fall hazards as much as four times per day.</li> </ul> <p>We have not determined whether these hazards, as alleged, exist at your workplace and we do not intend to conduct an inspection at this time. However, since allegations of violations and/or hazards have been made, we request that you immediately take the alleged conditions and risks into account and correct them. Please advise me by telephone by no later than May 16, 2017 of the results of your investigation. You must provide supporting documentation to your response. This may include, but not be limited to, any written reports, witness statements, and photographs/video which you believe would be helpful, as well as a description of any processes or procedures you have taken or are in the process of taking, including documentation of the corrected conditions.</p> <p>This letter is not a citation or a notification of proposed penalty which, according to the Occupational Safety and Health Act, may be issued after an inspection or investigation of the corrected conditions.</p>	<hr/> <hr/> <hr/> <hr/> <hr/>
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<p>The workplace is a place where we strive to ensure that workers are properly protected and informed. Please let us know if you require further action when needed. If we do not receive a response from you by May 16, 2017 indicating that appropriate action has been taken or that no hazard exists and why, an OSHA inspection will be conducted. An inspection may include a review of the facility, inspection of records, hazard communication, personal protective equipment, emergency action or response, blood-borne pathogens, confined space entry, lockout/tagout, and related safety and health issues.</p> <p>Please note, however, that OSHA selects for inspection some cases where we have received letters of complaint or other information that indicate potential emergency action. This is to ensure that employees have actually taken the action stated in their letters.</p> <p>If you need assistance to help resolve the issues of this complaint, the State of New Jersey offers a free OSHA consultation service. If requested, a consultant will visit your workplace and assess the nature of the hazard(s) and provide recommendations along with methods of correcting the hazard, if necessary. This service is provided on a priority basis to small, high hazard employers. To discuss or request their services, call the consultation project at the following address:</p> <p>On-Site Consultation New Jersey Department of Labor &amp; Workforce Development Division of Public Safety &amp; Occupational Safety &amp; Health 100 Route 73 South, Building 2, Suite 120 P.O. Box 953 Trenton, NJ 08645-0953 State: (609) 292-0404 Health: (609) 984-0704</p> <p>You are requested to post a copy of this letter where it will be readily accessible for review by all of your employees and return a copy of the signed Certificate of Posting (Attachment A) to the office of the State of New Jersey. If you have any questions concerning this letter, please contact the Marlton Area Office or a representative of any recognized employee union or safety committee if these are at your facility. Failure to do so may result in an on-site inspection.</p> <p>The complainant has been furnished a copy of this letter. It will be the responsibility of your representative under section 11(f) of the Occupational Safety and Health Act provides protection for employees against discrimination because of their involvement in protected safety and health activity.</p> <p>If you have any questions regarding this letter, please contact the Marlton Area Office at 700 Route 73 South, Building 2, Suite 120, Marlton, NJ 08053. Your personal support and interest in the safety and health of your employees is appreciated.</p> <p>Sincerely,</p>	<hr/> <hr/> <hr/> <hr/> <hr/>
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<p>Attachment A</p> <p style="text-align: center;"><b>CERTIFICATE OF POSTING OSHA NOTIFICATION OF ALLEGED HAZARD(S)</b></p> <p>Employer Name: Complaint Number:</p> <p>Date of Posting: _____</p> <p>Date Copy Given to: an Employee Representative: _____</p> <p>On behalf of the employer, I certify that a copy of the complaint letter received from the Occupational Safety and Health Administration (OSHA) has been posted in a conspicuous place, where all affected employees will have notice, or near such location where the violation occurred, and such notice has been given to each authorized representative of affected employees, if any. This notice was or will be posted for a minimum of ten (10) days or until any hazardous conditions found are corrected.</p> <p>Signature _____</p> <p>Title _____</p> <p>Employer Establishment name _____</p>	
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## Inspection Management

- Increased enforcement and penalties make inspection management more critical than ever.
- The most effective defenses are developed Before and During an OSHA inspection, not after the inspection

➤ Why?

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## Inspection Management (cont.)

- Inspection Plan – Basic Blocking Tackling
  - (1) Point person and backup/weekend person (Murphy's Law is that accidents will happen during the night shift and on weekends).
  - (2) Relevant written OSHA policies and logs should be readily available.
    - ✓ Keep copy in easily accessible binder
      - Update annually or as otherwise required

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## Inspection Management (cont.)

- When OSHA Arrives:
  - Politely receive the compliance officer.
  - Show compliance officer to conference room/empty office.
  - Inspection Focus
    - ✓ Determine why OSHA is inspecting
    - ✓ Types of inspections:
      - (1) Fatality/catastrophe
      - (2) Employee complaint
      - (3) Programmed
        - Local National emphasis program
        - Wall to wall inspection

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## Inspection Management (cont.)

- When OSHA Arrives:
  - Immediately notify the point person.
  - Point person takes control of the inspection is responsible for all communications with Compliance Officer and shadows Compliance Officer throughout inspection.
  - First impression is important.
- Two Keys to Successful Inspection Management
  - (1) Focus
  - (2) Control

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## Inspection Management (cont.)

- OSHA rights during inspection
- To access worksite if have underlying legal basis
  - Right to request documents that Employer required to maintain
  - Right to conduct walkaround inspection, area should be limited to hazard that is basis for inspection
  - Right to conduct employee interviews but employee can decline and employee not required to provide reason
  - No right to require employee to sign statement, tape record interview or photograph employee without employee consent

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## Inspection Management (cont.)

- The Reason OSHA is Inspecting Drives the Scope of the Inspection
- Once You Determine the Scope, Control Inspection by Limiting it to Only Those Items Within the Scope

Example: Employee is injured by a forklift and Employer is required to report injury to OSHA. OSHA has a legal basis to conduct an on-site inspection but it should be limited to the area where the accident occurred and the hazards associated with the operation and maintenance of the forklift.

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## Inspection Management (cont.)

- Plain View Doctrine
  - Compliance officer can issue citations for any violations in "plain view."
  - If Compliance Officer doesn't see it he/she can't cite you for it.
- Admissions
  - Based on statements from managers, supervisors, foremen and leadmen that they were aware of hazard
  - Never admit to a violation ("I'll check into that").
  - Never admit you don't have something ("let me get back to you on that").

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## Inspection Management (cont.)

- Immediately Correct Unsafe Conditions Identified by The Compliance Officer Without Admitting That The Condition Constitutes a Violation
  - May avoid the citation
  - May lessen the classification or penalty of a citation
  - OSHA must give employer credit for a "quick fix" of a potential hazard

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## Inspection Management (cont.)

- Employee Interviews
  - Non-Management Interviews
    - ✓ Explain employee rights
    - ✓ Conduct your own investigation
  - Management Interview
    - ✓ Right To Counsel
    - ✓ Binding Admissions
  - Avoid the "casual" interview
  - Remember: Everything is on the record. Do not engage in idle conversation concerning safety issues.

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## Inspection Management (cont.)

- Document Control Is Important

- No Such Thing As A "Safety Program"
  - ✓ Ask Compliance Officer which specific program he/she is looking for.
- Only Provide OSHA with Documents That Are Within The Scope Of The Inspection.
- OSHA Can Issue Citations For Violations Relating To Any Document The Employer Gives To Them.
- General Rule Of Thumb: Less Is More

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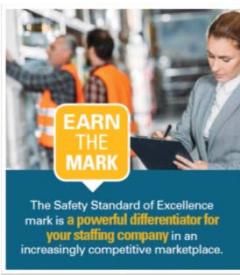
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## Safety Standard of Excellence®



Earning the mark demonstrates that your company has standards in place to foster a safe workplace for temporary workers



Learn more about the Safety Standard of Excellence program at [americanstaffing.net/safety](http://americanstaffing.net/safety), where you'll find program criteria, a preliminary assessment tool, and much more.



[americanstaffing.net/safety](http://americanstaffing.net/safety)



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**Thank you!**

Brent Clark  
bclark@seyfarth.com  
(312) 460-5876

Nicholas DeJesse  
DeJesse.Nicholas@dol.gov  
(215) 861 4900

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