

**SUBJECT:** MNOSHA's Emergency Response Contingency Plan.

**Purpose:** To ensure that Minnesota OSHA will be prepared to respond as quickly as possible to catastrophic events, which may affect the health or safety of employees, and to ensure that inspection efforts are well focused during the investigation.

**Scope** This instruction applies MNOSHA-wide.

**References:**

1. "Minnesota Emergency Operations Plan," latest edition, coordinated and published by the Division of Emergency Management, Department of Public Safety.
2. Federal OSHA Instruction CPL 2.94, "OSHA Response to Significant Events of Potentially Catastrophic Consequences," dated July 22, 1991.
3. Memorandum from John L. Henshaw dated March 3, 2003, re: "OSHA's Emergency Response Preparedness."

**Cancellation:** This instruction updates CPL 2.94D, dated June 2, 2003.

**Background:** The MNOSHA Emergency Response Contingency Plan was originally drafted in 1993 in response to Federal OSHA's CPL 2.94, which provided guidelines for OSHA's response to significant events of potentially catastrophic consequences, and required State Plan States to develop a similar plan. MNOSHA's plan was coordinated with the Minnesota Emergency Response Plan developed by the Minnesota Department of Public Safety Emergency Management Division. The Catastrophic Events Inspection (CEI) Team was formed to develop and maintain MNOSHA's contingency plan and to coordinate MNOSHA's response activities when a catastrophic event occurs. As a result of the events of 9/11, the role of MNOSHA and the purpose of the Catastrophic Events Inspection team changed. Amendments to this contingency plan reflect those changes. Basic guidelines are provided in this directive; however, because of the variable elements of each incident, actual response measures will be determined on a case-by-case basis

**ACTION:** All division personnel shall become familiar with the requirements of the MNOSHA Emergency Response Contingency Plan and follow the guidelines whenever a catastrophic event is investigated.

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**Distribution:** OSHA Compliance and WSC Director

**Attachments:** MNOSHA Contingency Plan for Response to Catastrophic Events

NOTICE: Minnesota OSHA Directives are used exclusively by MNOSHA personnel to assist in the administration of the OSHA program and in the proper interpretation and application of occupational safety and health statutes, regulations, and standards. They are not legally binding declarations and they are subject to revision or deletion at any time without notice.

**MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY  
OCCUPATIONAL SAFETY AND HEALTH DIVISION (MNOSHA)**

**CONTINGENCY PLAN FOR  
RESPONSE TO CATASTROPHIC EVENTS**

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**I. FOREWORD/INTRODUCTION.**

A. Background.

Federal OSHA issued CPL 2.94 in 1991 to provide guidelines to assist Federal OSHA field personnel in the orderly investigation of unpredictable events. State OSHA programs were required to adopt the federal procedures or develop similar practices and procedures that are at least as effective as those in the federal directive. The MNOSHA Emergency Response Contingency Plan was drafted in 1993 and was coordinated with the Minnesota Emergency Response Plan (the statewide plan encompassing all responding agencies) developed by the Minnesota Department of Public Safety Emergency Management Division. As a result of the events of 9/11, OSHA's role in regard to catastrophic events has been redefined at the Federal, as well as State of Minnesota, level and is clarified in this contingency plan.

B. Disclaimer.

1. Due to the unpredictable nature of "catastrophic events," the implementation of this plan is subject to the availability of adequate resources at the time the event occurs.
2. Because it is impossible to anticipate every aspect of such events, the event itself will, in some instances, dictate which elements of this plan are initiated.
3. This plan is intended for the exclusive use of MNOSHA personnel to assist them in responding to catastrophic events. The plan is not a legally binding declaration and is subject to revision or cancellation at any time without notice.

**II. PURPOSE.**

- A. The purpose of this plan is to ensure that Minnesota OSHA will be prepared to respond as quickly as possible to catastrophic events which may affect the health or safety of employees and to ensure that its efforts are well-focused during these complex investigations.
- B. It is Minnesota OSHA's policy to ensure that a catastrophic event affecting employee safety and health is investigated if appropriate. If primary responsibility for the event is within the jurisdiction of another government agency, MNOSHA will avoid duplication of effort, facilitate the exchange of information, and assure a thorough and comprehensive investigation if appropriate. If MNOSHA has primary responsibility, an inspection will be initiated referring to the applicable guidelines of this plan to the extent that available resources will allow.
- C. MNOSHA's response will be coordinated with other state, regional, and/or local responders in accordance with emergency response plans developed under SARA Title III, the Minnesota Hazardous Materials Incident Response Act (Minnesota Statutes 299A.47 to 299A.51, 1992), the Oil and Hazardous Substance Discharge Preparedness Act (Minnesota Statutes 115E.01 to 115E.09, 1991), Memorandum of Understanding

between the United States Department of Labor, Occupational Safety and Health Administration and the United States Chemical Safety and Hazard Investigation Board on Chemical Incident Investigations, or other applicable legislation.

- D. The objective of any investigation conducted pursuant to this plan is to determine the likely cause of the accident; determine whether a violation of a safety or health standard existed; determine what effect the violation had on the occurrence of the accident and define means to prevent a recurrence.

### III. SCOPE.

#### A. Extent of Coverage.

1. A "workplace catastrophic event" is defined as an occupationally related incident which:
  - a. involves multiple fatalities (two or more); or
  - b. involves extensive injuries or massive toxic exposures resulting in three or more people hospitalized overnight and/or ten or more people sent to the hospital and treated and released; or
  - c. presents a high potential for worker injury and generates widespread media interest.
2. Response in the event of a natural disaster may be addressed in this plan if the Emergency Response Plan has been activated for the State of Minnesota.
3. MNOSHA's response to catastrophic events as a result of the activation of the state's Emergency Response Plan will be coordinated with other federal, state, regional, and/or local emergency response agencies.

#### B. Extent of MNOSHA's Involvement in the Emergency Response Activities.

1. Where the potential for a catastrophic event exists and the emergency response agencies of Minnesota have been activated, MNOSHA will play a limited role during this type of catastrophic event and will not engage in activities that could impede emergency response operations.
2. The potential role of MNOSHA includes:
  - a. Support in accident/damage assessment.
  - b. Support in health protection.
  - c. Assessment of disaster-related employee injuries/fatalities.
  - d. Determine the cause of the accident/incident so that similar hazards to workers are prevented or minimized in the future.
  - e. Determine if occupational safety and health standards were violated.
  - f. No action taken shall detract from the authority of the incident commander.
  - g. Imminent danger situations will be pointed out to the incident commander.
  - h. Work cooperatively with other agencies to gather evidence to determine the cause of the accident/incident, which affect worker safety and health.
  - i. Assist agencies involved in the response procedures in assessing and mitigating safety and health hazards to workers.
  - j. Provide support as requested in the detection of air contaminants caused by chemical or biological agents and the implementation of appropriate sampling and analytical procedures as described by Federal OSHA, NIOSH, EPA and CDC.

- k. Assist in assessing hazards to workers and personal protective equipment needs as requested.

C. Criteria for Implementing Contingency Plan.

1. This plan shall be implemented when an incident occurs which meets the definition of "catastrophic event" as defined in paragraph III. A.
2. The CEI Team Leader is the primary contact for determining whether or not an incident requires implementation of this plan.
  - a. The CEI Team Leader is the Director of MNOSHA Compliance.
  - b. Principal backup to the CEI Team Leader is the Director of MNOSHA Compliance Health.
  - c. If neither the CEI Team Leader nor the Director of MNOSHA Compliance Health is available, the Director/Supervisor whose area is affected by the catastrophic event shall consult with a member of the CEI Team.
3. The CEI Team will be activated under the following circumstances:
  - a. When there has been an actual catastrophic event as defined in section III. A.1.
  - b. When notification is received and adequate time still exists for MNOSHA to respond to the catastrophic event or potential catastrophic event while emergency response activities are still in progress.

**IV. PERSONNEL ROLES AND RESPONSIBILITIES.**

A. Assistant Commissioner

1. As the designated representative of the Commissioner, the Assistant Commissioner for Workplace Services is directly responsible for all MNOSHA functions as delegated by the Commissioner. As such, the Assistant Commissioner shall facilitate implementation of this plan by assuring the availability of adequate resources and give the CEI Team Leader full authority to activate this contingency plan as necessary.
2. The Assistant Commissioner is responsible for all media contacts and news releases pertaining to the Division. However, due to the sensitive, unpredictable nature of emergency response activities, and because numerous responding agencies may be involved, interaction with the media during the initial phases of a catastrophic event response will be deferred to the Public Information Officer designated for the response. The Assistant Commissioner will be provided with the name of the Public Information Officer and method of contact (e.g., phone number) as soon as it is known to MNOSHA.
3. Following the completion of emergency response activities, as defined in sections III A 2 and III A 3, the Assistant Commissioner will be provided with a report of the event by MNOSHA and will resume the role of media spokesperson on behalf of the agency, or delegate that responsibility to the CEI Team Leader or other appropriate staff person.

- B. OSHA Management Team (OMT)
1. The OMT shall be responsible for providing adequate resources for the CEI Team Members to safely and effectively perform necessary duties under this plan.
  2. In the absence of the CEI Team Leader and or designated backup, the Director/Supervisor whose area is affected by the catastrophic event will work closely with a CEI Team representative in determining appropriate MNOSHA response to an incident.
- C. Catastrophic Events Inspection (CEI) Team Leader.
1. The CEI Team Leader and/or backup shall be responsible for determining if, when, and how the CEI Team will respond to an incident.
  2. The CEI Team Leader shall be a member of the State Agency Hazardous Materials Incident Response Committee in order to keep up-to-date on emergency response planning that is being done by other governmental agencies.
  3. The CEI Team Leader shall assure that individuals with specialized skills or experience are used in the investigative process. Therefore, the CEI Team Leader shall ensure that a skills/expertise profile of MNOSHA personnel is compiled and maintained as a reference for selecting staff for investigation of catastrophic events.
  4. The CEI Team Leader and/or backup shall ensure that MNOSHA maintains the full complement of equipment necessary to investigate the hazards commonly found in the workplace and expected at catastrophic events.
  5. The CEI Team Leader and CEI Team Members shall develop a list of qualified consultants and agencies for the various types of anticipated events. The listing of consultants and agencies shall be maintained and updated as necessary. [See Appendix C.]
  6. Because it is MNOSHA's policy to respond to catastrophic events as quickly as possible, the CEI Team Leader shall assure that a list of off-duty telephone numbers for current CEI Team Members is maintained and available for use by the CEI Team and OMT Directors/Supervisors.
  7. Because equipment and supplies, which may be necessary for an accident investigation, are stored at the St. Paul Central Office, the CEI Team Leader shall ensure that CEI Team Members have ready access to the office during off duty hours.
- D. Catastrophic Events Inspection (CEI) Team Members
1. CEI Team Members shall respond to catastrophic events or potential catastrophic events when assigned by the CEI Team Leader or backup for the purpose of observing the conditions of the event and activities of the responding agencies, gathering data, and recommending further investigation activities. CEI Team Members shall communicate with and update the CEI Team Leader on the event.

2. CEI Team Members shall participate in on-going team activities including attendance at meetings and training sessions of the CEI Team or other organizations as required.
3. CEI Team Members shall place highest priority on personal safety when responding to a catastrophic event.
4. CEI Team Members shall learn to use and maintain necessary equipment and personal protective clothing and equipment.
5. CEI Team Members shall be capable and approved to wear respirators.
6. CEI Team Members shall help to develop a list of qualified consultants and agencies for the various types of anticipated events.

E. OSHIs

1. OSHIs shall respond to catastrophic events as requested by an OMT Director/Supervisor.
2. OSHIs shall maintain a safe distance and ensure their personal safety when responding to catastrophic events.

**V. TRAINING.**

A. OMT Members.

All OMT members shall complete OSHA Training Institute (OTI) Course #345, "Basic Incident Command System," and OTI Course #346, "Emergency Response to Terrorism."

B. CEI Team Members.

Training for CEI Team Members shall be conducted in accordance with the criteria defined in Appendix B of this plan and shall be updated as needed.

C. OSHIs.

Training for OSHIs shall be conducted in accordance with ADM 5.1, "MNOSHA Investigator Training Plan," and as defined by the CEI Team Leader or backup prior to assignment to an incident.

**VI. PERSONAL PROTECTIVE EQUIPMENT/CLOTHING.**

In addition to the personal protective equipment and clothing that is generally provided to OSHIs, the following personal protective equipment/clothing shall be made available to CEI Team Members and OSHIs assigned to a catastrophic event inspection.

1. Escape respirators.
2. Toxic Gas Monitors
3. Flame retardant and chemical protective suits. (Some incidents may require these suits even in non-hazardous areas.)

4. Protective footwear - electrical protective shoes; or rubber boots, if available, that afford this protection.
5. New types of equipment as technology changes and improved testing, monitoring, and/or protective equipment as they become available. Team members will remain alert to such changes and review new equipment for its application to catastrophic events inspections.
6. Warning vests and hard hats with OSHA name and logo.
7. Optional Equipment:
  - a. Respirators - dust masks, half-mask respirators.
  - b. Battery-operated radios.

## VII. REPORTING OF CATASTROPHIC EVENTS.

### A. Workplace Catastrophic Events

Notices of workplace catastrophic 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/Catastrophe Report, if appropriate. In addition to the information contained in the OSHA-36, the person receiving the report shall attempt to obtain the following information:
  - a. Current status of the situation (i.e., is a continuing hazard present);
  - b. What the employer is doing to protect employees still on the site;
  - c. Area or location of the incident in relation to neighboring plants, storage areas, or residential areas; and
  - d. Other governmental agencies on the site including the identification of the "lead" agency (i.e., Emergency Management Division Department of Public Safety, MPCA, fire departments, etc.).
2. If the initial report is received from a source other than the employer, the person receiving the report shall attempt to obtain as much of the above information as possible.
  - a. If the CEI Team Leader or OMT Director/Supervisor feels that additional information is necessary to ascertain the occurrence of a catastrophic event, the employer may be contacted. Contacting the employer in this situation constitutes advance notice, and the FCM, Chapter III, C., applies.
  - b. If the CEI Team Leader or OMT Director/Supervisor 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. If the initial report is received from the State Duty Officer, the CEI Team Leader should advise the Duty Officer of what action MNOSHA will take and the forms of communication that MNOSHA personnel will be using at the scene.
3. Upon receipt of information from any reliable source that a workplace catastrophic event has occurred, and based on the present site condition, the CEI Team Leader through an OMT Director/Supervisor should send an OSHI and/or themselves to the site to obtain information and establish an agency presence.
  - a. The CEI Team Leader, upon verification of the magnitude of the event, shall assess the need for a team investigation of the incident. Procedures outlined in Section IX of this plan shall be followed if a team approach is warranted.
  - b. Personnel sent to the scene 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.
  - c. The primary function of personnel sent to the incident site is to gather preliminary information regarding the incident, which will be used to assess the need for further MNOSHA involvement.
4. Immediately upon receipt of clear information, either from MNOSHA personnel at the site or from press reports, the CEI Team Leader should provide the Eau Claire Federal OSHA Area Office Director with as much of the following information as possible:
  - a. Location of accident including county and zip code;
  - b. Employer or employers involved and type of business;
  - c. Type of incident (structural collapse, chemical release, etc.);
  - d. Date and time of event;
  - e. Number of persons killed, injured, or unaccounted for;
  - f. Status of rescue operations;
  - g. Whether an agency representative is on-site, or en route;
  - h. Person/agency in control of site;
  - i. Other organizations/agencies on site;
  - j. Telephone numbers of all parties on site;
  - k. Other significant information and sources of such information.

The Eau Claire Federal OSHA Area Office Director or alternate is responsible for notifying the Regional and/or National Offices and the United States Chemical Safety and Hazard Investigation Board of any catastrophic event.

- B. Activation of Emergency Management System
1. The CEI Team Leader or backup will receive the activation notice through the State of Minnesota's Emergency Management System.
  2. A departmental emergency operations center will immediately be established within DLI, which will be fully equipped with all necessary communication equipment. The equipment will include, but not be limited to, secured voice communication equipment, secured fax communication equipment, and secured internet access equipment. All communications between SEOC and DLI will be documented on the SEOC/DLI Communications Log (Appendix F).

### VIII. INITIAL ON-SCENE ACTIVITIES.

The level and/or degree of initial on-scene activity will be determined by the CEI Team Leader or backup based upon the type and degree of the catastrophic event.

- A. OSHI Protection During Initial Phases of the Investigation.
1. The paramount concern addressed by this section is the protection of OSHIs. **No enforcement action or accident investigation activity is so important as to place the life or health of the OSHI in danger.**
  2. MNOSHA 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 identity 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.
  3. The responding OSHI shall ensure that the following precautions are taken:
    - a. Prior to entering a potentially hazardous area at the incident site, determine if any of the following prohibited entry categories may be encountered:
      - i. Explosive substances are present or flammable substances are present in concentrations exceeding 10% of the lower explosive level (LEL).
      - ii. Site is on fire.
      - iii. Potentially hazardous unidentified substances are present, preventing an adequate determination of precautions for the safety or health of the OSHI.
      - iv. 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.
      - v. Adequate personal protective equipment (PPE) is not available for protection against the contaminant or biohazard present or OSHIs are not fully trained in use of the PPE.

- vi. Ionizing or non-ionizing radiation is present at levels which would result in exposures exceeding permissible exposure levels.
  - vii. Entry of pressurized chambers where decompression facilities are not available on-site.
  - viii. Presence of, or high probability of rapid generation of, atmospheres immediately dangerous to life and health.
  - ix. Structure or excavation is in danger of collapse or cave-in.
  - x. Decontamination equipment is not available.
- b. If any of the above conditions exist or is likely to occur during the course of the initial on-scene activities, the field team lead investigator shall refer the particulars of the situation to the CEI leader or backup. Entry into the hazardous area is prohibited unless entry is essential to the investigation and the CEI Team Leader or OMT Director/Supervisor grants approval.
  - c. **No OSHI shall enter any area where Level A or B protection is required without CEI Team Leader or backup approval.**
  - d. Inspection activity must be carefully planned to minimize the on-site time required, thus reducing potential exposure time.

B. Initial Activity Documentation

- 1. Upon arrival at the incident scene, the MNOSHA representative shall establish contact with the employer and if present the on-scene Incident Commander as soon as possible. If an opening conference is necessary, it may be delayed if management is engaged in rescue or emergency response activities.
- 2. The MNOSHA representative shall document the characteristics of the event with videotapes, photographs, and notes.

C. On-Site Responsibilities

The potential role of MNOSHA is outlined in Section III. B of this plan.

**IX. POST-EMERGENCY RESPONSE ACTIVITIES. (For sections III A 1 incidents only)**

A. Team Inspection Procedures.

- 1. As determined by the scope and magnitude of the event, it may be necessary for the CEI Team Leader to assemble a field investigation team to provide a comprehensive approach to the investigation. Members of a field investigation team shall be selected based upon their experience and abilities. The recommended size of a field investigation team is two inspectors.
- 2. The function of a field investigation team is to conduct the MNOSHA investigation once the emergency response phase of the event has ceased. The team shall follow existing procedures as outlined in the Field Compliance Manual (FCM), Chapter III and MNOSHA Instruction ADM 3.19B, "Serious Injury/Fatality Handling," in those instances involving a serious injury or fatality. In addition, the team shall:

- a. Evaluate potential hazards at the site.
  - b. Provide suitable progress reports to the CEI Team Leader.
  - c. Be present during physical evidence sampling or removal.
  - d. Gather witness testimony and obtain written interview statements.
  - e. Obtain and assemble copies of all needed reference documents.
  - f. Complete the necessary MNOSHA forms.
3. If needed, an OMT Director/Supervisor or Senior OSHI from the responsible Area Office may be designated as the Investigation Team Leader (ITL).
- a. The ITL is responsible for coordinating and directing the investigation and reporting findings to the CEI Team Leader or backup on a daily basis or more often if critical information is obtained.
  - b. The ITL must be aware of the direction and findings of other investigators as well as those of the team.
  - c. 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.
  - d. A concise chronology is required and must include events related directly to the incident, brief notes on meetings, telephone conversations, video and audio recordings, and decision processes, including dates and times.
  - e. The ITL must also conduct daily planning sessions with the field investigation team in order to be apprised of findings as well as to plan strategy and clearly communicate future investigative activities.

**B. Site Evaluation**

1. The field Investigation Team Leader shall ensure that the following inspection actions are accomplished:
  - a. Assess the extent of damage and personal injury;
  - b. Obtain the confidence and cooperation of the employer and other response officials involved, especially the on-scene Incident Commander if still involved, in order to proceed in an orderly and efficient manner;
  - c. Evaluate any remaining hazards;
  - d. Begin documenting (videotaping or sketching and photographing when a video camera is not available) the accident scene;
  - e. Develop protocol for conducting the investigation;
  - f. Identify all potential witnesses to the accident;



Team Leader or backup shall consider an expedited procedure for issuing subpoenas.

- d. If a witness refuses to be interviewed or to give a statement, the OSHI 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 CEI Team Leader or backup for an administrative subpoena compelling the individual to appear and be deposed.
6. MNOSHA 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 CEI Team Leader or backup based upon input from the Investigation 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.
- a. If it appears that either lack of site control, material alterations, or removal of material will interfere with the MNOSHA investigation, the CEI Team Leader or backup shall contact the Attorney General's Office to get an appropriate court order. In no case shall a MNOSHA representative attempt to exert authority without such an order.
  - b. The representatives of other agencies may have a need to remove material and/or to search for missing physical evidence. In addition, during rescue/recovery operations, much of the physical evidence may be removed, displaced, or destroyed. Therefore, it is imperative that every effort be made, as soon as possible, to establish site control and preserve the physical evidence by coordination with the agencies on the site, especially the on-scene Incident Commander, as well as those which will be involved later.
7. MNOSHA's jurisdiction may be preempted by another agency. In such cases, the guidelines given in the FCM shall be observed. If it is reasonably possible that MNOSHA has coverage, the Investigation Team Leader shall start the investigation at once and not let potential jurisdiction problems interfere with the investigation. The CEI Team Leader or backup, in consultation with the Attorney General's Office, shall determine whether MNOSHA has jurisdiction over the worksite if in question as quickly as possible.
8. Inevitably circumstances will arise that are not covered by the preceding sections of this instruction or the FCM. The CEI Team Leader shall be alert to these unusual circumstances so that proper action can be taken and their occurrence will not hinder the investigation.
- a. Where refusal of entry is anticipated, an anticipatory warrant may be obtained. Issuance of anticipatory warrants is addressed in MNOSHA Instruction ADM 3.13, "Denial of Entry and Procedures for Obtaining Court Orders for Inspection."
  - b. In the event of a denial of entry occurring on a weekend, the CEI Team Leader or backup shall determine if a warrant is needed prior to the following Monday. If so, the Attorney General's Office shall be informed of this need.

- c. After approval from the Attorney General's Office, arrangements must be made to have a judge sign the warrant. To facilitate this process, the Special Assistant Attorney General shall attempt to obtain the home telephone number of a judge with jurisdiction in each judicial district.

C. Evidence.

1. The inspection team shall ensure, to the fullest extent possible, that all evidence at the event site remains undisturbed until MNOSHA has had an opportunity to document, examine, and inspect it.
  - a. The CEI Team Leader or Investigation Team Leader shall attempt to negotiate an agreement with the employer or other controlling authority not to disturb any evidence involved in the incident without MNOSHA's consent and negotiate a written agreement regarding preservation of all evidence in the accident area.
  - b. Agreements shall also be sought with other investigators about the sampling order or removal/alteration order for physical evidence. There should 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.
  - c. Agreements shall also be sought specifically dealing with the protocol for examining and/or testing equipment, including prohibiting the alteration of equipment in any manner until all significant items have been documented to each party's satisfaction.
2. Upon completion of the immediate firefighting or other damage suppression activity, the scene shall be left undisturbed to the maximum extent possible until the investigation team arrives. Team members shall identify material and possible witnesses to the event during the earliest phases of the investigation. Plans must also be formulated at that time to identify further physical evidence needs.
  - a. Once the required evidence has been identified, the chain of custody must be established.
  - b. Where equipment has to be removed to eliminate remaining hazards, a record shall be made of the action taken. Photographs or video recordings will be useful both as a record and a basis for analysis.
3. Evidence shall be systematically collected in accordance with FCM Chapter III and ADM 3.19B, "Serious Injury/Fatality Handling." In addition, answers to the following questions may be helpful:
  - a. What was the building or structure like before the incident--construction materials, floor plan, etc.?
  - b. What was the overall layout before the incident and after it? (e.g., aerial photos of the site, photographs, measurements, location of stray parts of equipment dislodged during the incident, etc.).

- c. Names and addresses of survivors, eyewitnesses, and persons familiar with material or equipment involved; assistance they can provide, position of victims and survivors before/after incident.
  - d. What operations were being conducted at the time of the accident? Are there written procedures, checklists, etc.? Are chemicals involved?
  - e. What had gone on before the accident? Were there changes in procedures, new materials, noted potential problems, anything unusual or strange?
  - f. Was there advance training?
4. The orderly documentation of evidence is a prime factor for a successful investigation. Photos and videos taken prior to and during the inspection shall be identified as required by the FCM and Case File Preparation Manual (CFPM). Photos and videotapes provided by other sources (such as aerial photos from EPA, videotaped news clips showing actual footage of the incident, etc.) shall also be identified and maintained in accordance with the FCM and Case File Preparation Manual (CFPM).

D. Witness Interviews.

1. Witness statements shall be taken to obtain first hand knowledge of conditions at the time of the incident in accordance with the requirements of FCM Chapter III-- and MNOSHA Instruction ADM 3.19B, "Serious Injury/Fatality Handling."
2. If needed prior to interviews being conducted, the CEI Team Leader and the investigation team members shall develop key critical and screening questions to ask all witnesses. Such questions should be written down and provided to all interviewers.
3. Information developed in employee interviews must be documented for use in case file development. Tape recorded interviews should be attached to a completed "Employee Interview Statement" form in accordance with FCM Chapter III, Appendix III-B.

E. Emergency Response Evaluation.

If the inspection team is charged with evaluating emergency response, the OSHI 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.

F. Technical Assistance.

It may be assumed that MNOSHA will need experts to serve both in determining the cause of the accident and testifying at any subsequent legal proceedings. The CEI Team Leader or backup shall determine if outside experts are needed and secure their assistance following the guidelines in FCM Chapter III. Outside experts include, but are not limited to, the Federal OSHA Office of Construction and Engineering and the Directorate of Technical Support (which includes the Health Response Team).

G. Closing Conference.

A closing conference shall not be conducted until the CEI Team Leader, in conjunction with an OMT Director/Supervisor, gives permission to do so. The closing conference shall be conducted in accordance with the requirements of FCM Chapter III.

## **X. COMMUNICATIONS**

### **A. Between Inspectors**

Effective communication is especially important during these investigations. The following communications equipment should be considered depending upon the circumstances, which arise during the investigation.

1. Various pieces of portable communication equipment are available from the Minnesota Department of Public Safety, Division of Emergency Management, Duty Officer (Metro Area phone: 651/649-5451 or Outstate: 1-800-422-0798).
2. Mobile (cellular) phones are particularly useful to maintain communication. MNOSHA has two cellular phones. In addition, cellular phones are available from the Division of Emergency Management Duty Officer.

### **B. With CEI Team Leader and/or Backup**

Periodic progress meetings are important for the Investigation Team Leader and CEI Team Leader to provide a way of keeping each person up-to-date on the progress of the investigation. Investigation teams shall meet frequently to review findings, discuss possible theories of causation, and exchange information.

### **C. With Other Agencies**

It is vital that this communication be maintained and documented between the Investigation Team Leader/CEI Team Leader and the other agencies involved, so that all available resources are effectively and efficiently utilized.

### **D. With Media**

There are two aspects of media coverage that may be pertinent: providing information to the media, and obtaining information from the media. All contacts with the media shall be in accordance with the requirements of FCM Chapter I and paragraph IV. A. of this instruction.

### **E. With Federal OSHA**

Periodic updates shall be provided as requested on type III A 1 incidents and daily on type III A 2 and III A 3 incidents.

## **XI. POST-INSPECTION ACTIVITIES. (For sections III A 1 Incidents only)**

### **A. 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.

1. 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. (A sample document control form is in Appendix D of this instruction.)

2. An inventory or log of the documents received may be maintained.
3. Once a document is reviewed, a short summary may be prepared and placed in the file. The summary may be a single line or several paragraphs; the original document if not required in the file shall be returned.
4. 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.

**B. 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.

1. The inspection report should be prepared from all documented information that has been gathered following case file preparation procedures outlined in the FCM and Case File Preparation Manual.
2. If more than one OSHI is involved, the team should prepare the report under the guidance of the CEI Team Leader or backup. The CEI Team Leader shall review the final report.

**C. Disclosure.**

MNOSHA's policy regarding disclosure of case file contents is in Instruction ADM 3.7, "Data Practices – Release of Case File Information."

1. Any release of official case file information shall be conducted in accordance with guidelines in MNOSHA Instruction ADM 3.7.
2. The Chemical Safety and Hazard Investigation Board may investigate incidents involving a chemical release. Under the terms of the MOU between the Board and OSHA, release of OSHA-related information relative to the investigation must be coordinated with the Board to ensure proper disclosure.

**D. Case Evaluation.**

After a completed inspection dealing with a catastrophic event, the CEI Team will meet to discuss the inspection and determine lessons learned.

**XII. POST-INSPECTION ACTIVITIES (for sections III A 2 and/or III A 3 incidents only)**

The CEI Team will submit a report on lessons learned, activities conducted, and recommendations for future incidents.

**XIII. PERIODIC EVALUATION OF PLAN.**

It is MNOSHA's policy to evaluate the effectiveness of this plan annually. When new department administrators are appointed, they shall be provided with a copy of this plan and an explanation of MNOSHA's responsibilities with respect to catastrophic event response.

APPENDIX A

**THE CATASTROPHIC EVENTS INSPECTION (CEI) TEAM**  
[membership as of 7/05]

CEI TEAM LEADER:

Patricia Todd, Director of MNOSHA Compliance

CEI TEAM LEADER BACKUP:

Alden Hoffman, OMT Director/Health

OMT DIRECTORS/SUPERVISORS:

Jim Krueger – Director of Metro General Industry  
Alden Hoffman- Director of Health  
Mitz DelCaro – Supervisor of Metro Construction  
Jeff Isakson – Supervisor of Northern Greater MN  
Deb Peterson – Supervisor of Southern Greater MN  
Ev Kuehl -- Office Supervisor  
Nancy Zentgraf -- Supervisor of Metro General Industry  
Clayton Handt -- Health Supervisor

CEI TEAM MEMBERS:

Ron Anderson – health representative  
Jolyn Crum –consultation representative  
Chuck Logan -- safety representative  
Larry Sperling – safety representative  
Clayton Handt -- Health Supervisor  
Terry Osterbauer – health representative  
Tyrone Taylor – safety representative  
Shelly Techar – administrative support

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Reports of catastrophic events that involve response by Minnesota's emergency management system responders will be provided to MNOSHA by the State Duty Officer (Division of Emergency Management, Dept. of Public Safety). The Duty Officer may be reached at the following numbers:

(651) 649-5451  
1-800-422-0798  
(651) 296-2300

[Twin Cities Metro Area and Outside Minnesota]  
[In Greater Minnesota Only]  
[FAX]

**APPENDIX B**

**Training Plan for  
Catastrophic Event Inspection (CEI) Team Members**

**I. Training Strategy for CEI Team Members.**

- A. Team members shall recommend specific training needs and identify objectives of training.
  - 1. Potential sources of training for CEI Team Members include, but are not limited to, the following groups:
    - a. OSHA Institute
    - b. Minnesota Safety Council
    - c. Midwest Center for Occupational Health and Safety
    - d. Associations such as the State Fire Chiefs' and State Fire Department Associations.
    - e. Other state agencies such as Public Safety with its Division of Emergency Management, Office of Pipeline Safety, and Emergency Response Commission, and the Pollution Control Agency.
    - e. Drills and exercises sponsored by various responding agencies and associations such as WAKOTA CAER.

**II. Elements of CEI Team Member Training.**

- A. MNOSHA Emergency Response Contingency Plan.
- B. OSHA Training Institute (OTI) Course #345, "Basic Incident Command System"
- C. OSHA Training Institute (OTI) Course #346, "Emergency Response to Terrorism."
- D. Maintenance and use of new and/or unique equipment necessary for catastrophic event inspections.
- E. Incident Command System (included in four-hour OTI Course #345).
- F. Responsibilities and standard operating procedures of other emergency response agencies.
- G. What other responding agencies expect from MNOSHA.
- H. Regional Hazardous Materials Response Teams; authority, functions, responsibilities, capabilities, etc.

APPENDIX C

## Catastrophic Event Inspection List of Possible Consultants

This appendix may assist the Catastrophic Events Inspection Team in those cases where technical assistance or consultation is needed. Since OSHA may cover some of the responding agencies in the event of an accident or fatality, it may be difficult for the CEI Team to use these resources. There is the possibility for some reliance on Federal OSHA and/or the CDC for assistance. NIOSH does not have any experts for these events. Contributors to the Federal OSHA Process Safety Management Standard may also be a source of information.

The OSHA Salt Lake Technical Center (SLTC) serves as OSHA's experts, provides technical support and emergency field response when appropriate. The SLTC includes the Health Response Team. The SLTC maintains the "Technical Links" portion of the OSHA website, including information on hazardous waste and emergency response. The SLTC is located at 1781 South 300 West, Salt Lake City, UT 84115-1802; phone: (801) 287-0680; website: [www.osha.gov](http://www.osha.gov).

The Centers for Disease Control and Prevention also provides emergency response assistance. The Emergency Preparedness and Response Branch (EPRB) of the National Center for Environmental Health coordinates the Centers for Disease Control and Prevention's emergency preparedness and response activities. Their 24-hour emergency telephone number is: (770) 488-7100. Planning or consultations are available at this same number during normal business hours (8 a.m.-4:30 p.m. ET). The EPRB's main functions are to provide assistance to local, state and federal agencies in planning their public health-related responses to emergency situations and to respond to requests for public health emergency response and recovery assistance after technologic and natural disasters. Their website address is: [www.cdc.gov/nceh/emergency/default.htm](http://www.cdc.gov/nceh/emergency/default.htm).

CHEMTREC, which is affiliated with the Chemical Manufacturers Association, provides around-the-clock emergency response information in the event of HAZMAT accidents. Their Emergency Call Center is a state-of-the-art communications hub that provides technical information and links chemical experts and resources with emergency responders. CHEMTREC is located at 1300 Wilson Blvd., Arlington, VA 22209; phone: (800) 262-8200; fax: (703) 741-6037; e-mail: [chemtrec@cmahq.com](mailto:chemtrec@cmahq.com). CHEMTREC may also be accessed on-line at: [www.CHEMTREC.org](http://www.CHEMTREC.org). Their website includes lists of additional resources that may also be useful.

There are two volumes of information produced by the U. S. Department of Health and Human Services, Public Health Services, Agency for Toxic Substances and Disease Registry (ATSDR), titled, "Managing Hazardous Material Incidents -- A Planning Guide for the Management of Contaminated Patients" Volume I Emergency Medical Services, Volume II Hospital Emergency Departments. These documents contain many names and phone numbers for information that may be useful in a HAZMAT incident. The ATSDR's website is: [www.atsdr.cdc.gov/atsdrhome.html](http://www.atsdr.cdc.gov/atsdrhome.html).

The Federal OSHA National Office may also be able to provide expert assistance through the following offices:

### Directorate of Construction, Division of Engineering Services [202/693-2346]

This office was formed, in part, to support investigations of large-scale disasters by providing a capability to complete technical analysis and observation.

### Directorate of Technical Support [202/693-2300]

This office serves as the principal source of Federal OSHA expertise with respect to scientific, engineering, and medical issues. A wide range of support activities can be requested from the DTS. The Health Response Team (HRT) as well as specialists from other offices within the Directorate provides on-site services. On-site laboratory services, occupational medicine,

specialized equipment needs, chemical and professional engineering services and priority technical information retrieval are also available.

Website for Federal OSHA: [www.osha.gov](http://www.osha.gov)

Website for Chemical Safety and Hazard Investigation Board: [www.CHEMSAFETY.gov](http://www.CHEMSAFETY.gov)



APPENDIX E

**The State of MN, Department of Labor & Industry Equipment List**

The following electronic, communications, and computer equipment should be considered when outfitting the Minnesota Department of Labor and Industry during a covered incident to help facilitate efficient command and control operations:

<b>CHECKLIST: SUGGESTED EQUIPMENT</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Suggested Equipment</b>
			A TV/VCR - to monitor news and weather as it relates to incidents, to watch press conferences, and identify sources of misinformation.
			A communications system [reserved - system is under evaluation] - to communicate with Regional and onsite OSHA personnel and other Federal organizations. Consider including:
			•
			• Nextel telephones,
			• Hand-held radios, (consider broad band and battery operated in case of power outage)
			• Hand-held computers with cellular internet capabilities,
			• Secure cellular telephones, and
			• Pagers with text messaging capabilities.
			• Secure computer (certify that one can be used for classified and sensitive information)
			An expansion of the existing networked computer system – to include up to 6 available terminals and appropriate network connections to track incidents, prepare reports, prepare news releases, send and receive email, prepare and deliver briefings, and document Department of Labor response tasks.
			Laptop and/or PDA computer equipment - for use by dispatched OSHA response personnel for remote access (internet and intranet) and communication (via email).
			Fax machines
			A copy machine.
			Essential office supplies - paper, pens, etc.
			Communication Equipment – consider a minimum of one computer and certify it for use with classified and sensitive information.

**Internal Health and Safety Coordinator Response Checklist**

<b>RESPONSE CHECKLIST: INTERNAL HEALTH AND SAFETY COORDINATOR</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Immediately</b>
			Coordinate with the OSHA Incident Commander and identify the other OSHA function leaders, and the lead individuals within the site ICS,.
			Identify PPE and other control measures needed – discuss operations with OSHA team members.
			Report out on activities – as identified by the OSHA Incident Commander <b>(ongoing)</b> .
			Attend regular and special strategic meetings <b>(ongoing)</b> .
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24 hours</b>
			Identify PPE and other control measures: <ul style="list-style-type: none"> <li>o Discuss hazards with OSHA Risk Assessment function leaders.</li> <li>o Determine PPE requirements based on the operations and risk assessment [respirators , hard hats, eye protection, hearing protection, gloves, full body protection, weather gear, etc.]</li> </ul>
			Report out on activities – as determined by the OSHA Incident Commander <b>(ongoing)</b> .
			Attend regular and special strategic meetings <b>(ongoing)</b>
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours</b>
			Develop training for all OSHA team members.
			Deliver training program to all OSHA team members.
			If necessary, prepare a manual of all appropriate OSHA programs and review with all OSHA team members.
			Report out on activities – as determined by OSHA Incident Commander. <b>(ongoing)</b> .
			Attend regular and special strategic meetings <b>(ongoing)</b> .

**Area Office Liaison Response Checklist**

<b>RESPONSE CHECKLIST: AREA OFFICE LIAISON</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24 hours:</b>
			Acquire access to computer, telephone and email/fax. Identify OSHA's representative to the EOC and share phone contact and email information.
			Contact Federal OSHA Area Office in Eau Claire, WI
			Ensure Area Office staff is aware of your identity and role.
			Determine Area Office address list for forwarding updates.
			Send initial summary of incident and response to State of MN Department of Labor cabinet and Fed OSHA Area staff.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours</b>
			Establish and update format to address the incident and share OSHA Incident Commander(s), and other OSHA function leaders.
			Coordinate with OSHA Incident Commander(s), and other function leaders to determine daily reporting time and type of information needed.
			Identify OSHA's representative to the EOC and share phone contact and email information.
			Determine time frame for daily/weekly updates. (Between each Federal Area Office, Cabinet, and other people involved)
			Establish and update email address to include all function leaders.
			Establish and update email address to include other staff.
			Assign subordinate manager to act and assume normal duties.
			If necessary acquire travel and lodging information.

**Logistics Coordinator Response Checklist**

<b>RESPONSE CHECKLIST: LOGISTICS COORDINATOR</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24-48 hours:</b>
			Meet with affected managers as well as OSHA function leaders to develop a list of immediate issues demanding attention.
			Meet with representatives of management staff in the areas of finance, management services, and human resources.
			Assign tasks in the areas of lodging, travel, procurement of technical and non-technical supplies, vehicle deployment, information technology, personnel deployment (i.e., scheduling), based on staff proficiency.
			Project cost for overtime, travel, supplies, equipment etc. based on historical data, coupled with management feedback and assessment of disaster relief needs and FEMA/other resource support. Report projected costs functional leaders.
			Contact hotels for availability and secure price estimates.
			Arrange for immediate transportation needs.
			Take inventory on supplies needed,
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48-72 hours:</b>
			Evaluate computer/data communication related needs: <ul style="list-style-type: none"> <li>o PCs with Internet and email access, networking/standalone/wireless system, printing capability at various strategic locations: Command Center, Site Ops, etc.</li> <li>o PDAs with customized database program pre-installed for data collection</li> <li>o PDAs with wireless and GPS capability</li> <li>o Level of support from IT staff: network management, PowerPoint application, database application, PDA application, data management, burning CDs, paper document management, etc.</li> <li>o Digital/paper maps from city/county agency or other sources</li> <li>o High speed color printing, scanners, digital cameras</li> <li>o Equipment for orientation/meeting/presentation needs such as LCD projector, laptops, electronic whiteboards</li> <li>o Laptops/printers for PortaCounts</li> </ul>
			Contact local motor pools for additional government vehicles, including specialized, as needed.
			Take inventory on supplies/equipment needed, including personnel protective equipment to be loaned to visiting officials on a moment's notice.
			Establish procedures for reporting expenditures and overtime.

<b>RESPONSE CHECKLIST: LOGISTICS COORDINATOR</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48-72 hours:</b>
			Establish conference call schedule with to communicate reporting procedures and updates.
			Contact vendors for telecommunication equipment and specialized equipment needs (e.g. gators, mules, etc.).
			Establish protocol for tracking all related expenditures.
			Conduct conference call with affected offices.
			Reserve hotel rooms and establish hotel command post, if warranted.
			Establish a protocol for receipt of supplies, storing of supplies, distribution and replenishment of supplies.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 72 hours – 1 week</b>
			Continue daily huddles and meetings with other function leaders to determine logistical support needed.
			Develop a system for assigning and tracking government vehicles.
			Inventory emergency supplies used and replenish, as needed.
			Purchase/lease communication equipment such as cell phones/two way radios.
			Report to functional leaders expenditures to date.
			Conduct first weekly conference call with all affected personnel and establish scheduled for weekly follow-up calls.
			Track expenditures for travel, overtime, supplies, equipment, etc.
			Communicate with Public Affairs Office to secure guidance on processing of FOIA claims.

**OSHA's Representative - Site Emergency Operations Center Response Checklist  
(Support to other Federal and State agency EOC)**

<b>RESPONSE CHECKLIST: OSHA'S REPRESENTATIVE – SITE EMERGENCY OPERATIONS CENTER</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 12 hours:</b>
			Find the site EOC.
			Arrive with or obtain ASAP: <ul style="list-style-type: none"> <li>o Roster, including e-mail addresses and home phone numbers, of OSHA CEI team.</li> <li>o The names and contact numbers for the Minnesota Department of Labor and Industry functional leaders for this response.</li> <li>o Desk supplies, i.e. staplers, pens, paper clips, file folders etc.</li> <li>o OSHA standards</li> </ul>
			Secure a place in the site EOC. Obtain list of "Who's Who" at the site EOC and supply it to OSHA Incident Commander, Minnesota Department of Labor and Industry function leaders, and other OSHA representatives to the site EOC.
			Secure phone service either cell or land line. St. Paul, Mankato and Duluth offices have a cell phone.
			Set up document control system.
			Attend Operations and S & H meetings.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24 hours:</b>
			Secure internet connection and computer.
			Obtain the location and schedule of all meetings.
			Obtain site security and credentialing protocol.
			Set up "phone book" system (paper, floppy disc and CD) and include the names and numbers of people met or contacted as part of the site EOC and all OSHA personnel involved with the site.
			Obtain and review the emergency action plan for the site EOC.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours:</b>
			Information located in HR offices.
			Set up system to replenish desk supplies.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 72 hours:</b>
			Evaluate furniture needs – chairs, desk, file cabinets, etc.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First week:</b>
			Evaluate OSHA's staffing level at EOC and adjust as needed.
			Evaluate document control and phone book system and adjust as needed.

**Public Information Officer Response Checklist**

<b>RESPONSE CHECKLIST: PUBLIC INFORMATION OFFICER</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Advance Planning:</b>
			Ensure that all cabinet level personnel within the Department of Labor and Industry are aware of the policy.
			Identify backups in advance.
			Prepare boilerplate releases for the web.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Immediately:</b>
			Identify agency spokesperson.
			Brief senior agency staff.
			Start monitoring media on Internet and other 24/7 media ASAP.
			Research inspection history of site and companies as appropriate.
			Activate communications center.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 8 hours:</b>
			Issue first release ASAP.
			Issue web postings ASAP.
			Consider media briefing.
			Hold first briefing if possible.
			Continue assessing media.
			Develop talking points for senior staff.
			Obtain as much added information as possible from the OSHA Incident Commander.
			Establish public affairs relations with relevant agencies (names, phone numbers, e-mail addresses) and determine working relationship.
			Obtain or create press lists with contact names, phone numbers, e-mail addresses, fax numbers.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours:</b>
			Build resource book with press contacts, agency contacts, technical contacts and resources, clips, talking points, etc.
			Assess facts and update team.
			Coordinate/communicate with important stakeholders.
			Conduct internal employee briefing.
			Consider bringing high ranking administration officials to raise visibility of worker protection efforts.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Post 48 hours:</b>
			Update regularly talking points, web materials, pictures.
			Issue press releases and schedule press briefings as often as practical on or near site.
			Monitor media coverage continually.

<b>RESPONSE CHECKLIST: PUBLIC INFORMATION OFFICER</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Post 48 hours:</b>
			Develop and issue human-interest stories, back-home stories on people who participate.
			Communicate to workers that OSHA is there for their protection and tell media what is being communicated to workers.
			Look for and promote successes both large and small.
			Assess public affairs message regularly; advise and brief senior staff. Use third party validations to reinforce message (i.e. professional safety and health organizations, unions, trade associations, etc.).
			Manage rumor mill and misinformation, such as improper or unnecessary calls for volunteers, equipment, and donations.
			Aggressively refute inaccurate, misleading information through all means including op-eds, letters to the editor, website postings.

**Safety Risk Assessment/Monitoring Coordinator Response Checklist**

<b>RESPONSE CHECKLIST: SAFETY RISK ASSESSMENT/MONITORING COORDINATOR</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 12 hours:</b>
			Conduct a cursory hazard assessment prior to entry onto the site and insure adequate safety equipment is available.
			Coordinate with the Incident Commander, and other responding agencies, to identify the potential safety hazards that need to be evaluated and OSHA's role, if any, in that evaluation.
			Establish, through the Incident Commander, if qualified Safety Specialists are involved and what role OSHA will fulfill.
			Assist, if requested, in identifying and obtaining the equipment
			Assist, if requested, in identifying and obtaining the equipment and other needed resources necessary to evaluate the site safety hazards.
			Obtain appropriate PPE, including respiratory protection, and other equipment (e.g., communication, computer) as needed for OSHA personnel (or other agencies, if requested).
			Ensure appropriate OSHA personnel and equipment are transported to the site.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24 hours:</b>
			Coordinate with the Incident Commander and other responding agencies and organize site activities/operations. Brief all responding OSHA personnel on site safety hazards and appropriate controls.
			Establish an OSHA safety team and determine what role, if any, team will perform with other Agency officials.
			Identify site serious/imminent hazards and ensure these are addressed.
			Review any site maps, diagrams, reports, etc., as necessary.
			Coordinate with the Incident Commander and determine if site assessment activities can be conducted. Observe and evaluate site safety hazards and existing site control procedures.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours and beyond:</b>
			Determine if there is a need for long term scheduling and/or a 24-hour presence. Coordinate with Incident Commander to ensure adequate personnel are available to provided continuous necessary safety support on site.
			Work with Incident Commander to ensure a safety representative familiar with safety risk assessment (OSHA, if requested) attends construction and/or emergency response contract operational meetings.
			Establish a system to record OSHA safety involvement and document a chronology of OSHA safety events.
			Ensure that all equipment (radios, PDA's, etc) has been provided and distributed to on site OSHA personnel.
			Coordinate with computer specialist for records as needed.

<b>RESPONSE CHECKLIST: SAFETY RISK ASSESSMENT/MONITORING COORDINATOR</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours and beyond:</b>
			Begin producing safety hazard reports and update these regularly based on requests from the Incident Commander, and the other site response organizations.
			Participate in any established Inter-/Intra-Agency Task Groups or conference calls to support the response, as requested.
			Determine if there is a need for long term scheduling and/or a 24-hour presence. Coordinate with the Incident Commander to ensure adequate personnel are available to provided continuous necessary safety support on site.

**Health Risk Assessment/Monitoring Coordinator Response Checklist**

<b>RESPONSE CHECKLIST: HEALTH RISK ASSESSMENT/MONITORING COORDINATOR</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 12 hours:</b>
			Conduct a cursory health risk assessment prior to entry onto the site and ensure that adequate safety and monitoring equipment is available. Calibrate equipment as needed.
			Coordinate with the OSHA Incident Commander and other responding agencies, to identify the potential health hazards that need to be assessed, and OSHA's role in that assessment. Review any existing initial reports and information.
			Identify the sampling that OSHA is prepared to conduct and obtain sampling media and sampling equipment for immediate use.
			Determine where samples will be shipped and how they will be transported.
			Consult with experts to discuss site hazards and identify any other specialized sampling equipment and analytical methodologies that may be necessary.
			Obtain specialized sampling equipment and/or media from MDH or local sources.
			Coordinate with the OSHA Incident Commander to ensure Field Industrial Hygienists, other Health Specialists, and sampling coordinators are available for immediate onsite response.
			Determine if an initial site assessment by another entity has been made and if initial sampling has been performed.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 12 – 24 hours:</b>
			Brief the OSHA Incident Commander and OSHA function leaders on the site health hazards and any available OSHA sample results or those from other responding organizations.
			Ensure that appropriate equipment and sampling media is onsite within 24 hours and that sampling is coordinated.
			Coordinate with other responding organizations to review their sampling data and discuss OSHA sampling data.
			Coordinate with OSHA Incident Commander to ensure adequate sampling personnel are available to provide continuous sampling support on site.
			Ensure that data system has been established to manage all sampling data.
			Re-evaluate initial hazard assessment and determine if site exposure controls and site sampling strategy is appropriate. Revise as necessary. Adjust the allocation of personnel and equipment accordingly.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24 – 48 hours:</b>
			Begin producing health hazard reports and update these regularly

<b>RESPONSE CHECKLIST: HEALTH RISK ASSESSMENT/MONITORING COORDINATOR</b>			
			based on requests.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24 – 48 hours:</b>
			Provide health hazard information to OSHA incident commander and OSHA CEI team.
			Re-evaluate site hazard assessment and determine if site exposure controls and site sampling strategy is appropriate. Revise as necessary. Adjust the allocation of personnel and equipment accordingly.
			Meet with contractors, labor, and other response organizations on-site. Identify OSHA’s Health Risk Assessment activities on site and solicit their help in getting workers to wear sampling equipment. Advise them of any protective measures they need to take. Provide them with OSHA’s sample result and data analysis. Request information that would help OSHA conduct risk assessment activities, such as operations, complaints, injuries, etc.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours – 1 week:</b>
			Communicate with Laboratory routinely to identify any perceived sampling pitfalls and better sampling methods.
			Ensure that personnel are notified of their personal sampling results
			Work with OSHA Incident Commander to ensure an OSHA representative familiar with health risk assessment attends construction and/or emergency response contract operational meetings.
			Participate in any established Inter-/Intra- Agency Task Groups or conference calls to support the response.
			Determine if there is a need for long term scheduling and/or a 24-hour presence. Coordinate with the Incident Commander to ensure adequate personnel are available to provided continuous necessary safety support on site.

### Sampling Coordinator Response Checklist

RESPONSE CHECKLIST: SAMPLING COORDINATOR			
Yes	No	N/A	First 24 hours:
<b>Before field IHs arrive and begin working at the site:</b>			
			Have working communication equipment available for contact with field IHs. St. Paul, Duluth and Mankato offices have a cell phone.
			Ensure transportation to and from site is available.
			With the Electronics Technician, begin to inventory available sampling equipment, sampling media, PPE and other equipment and supplies.
			With the Health Risk Assessment/Monitoring Coordinators, develop the initial sampling strategy.
<b>The following activities begin as soon as the field IHs arrive and begin work at the site:</b>			
			<p>Daily in person start-of-day briefings and end-of-day debriefings with field IHs:</p> <ul style="list-style-type: none"> <li>○ Assign sampling duties in accordance with current sampling strategy.</li> <li>○ Review daily accomplishments and obstacles.</li> <li>○ Brief the IHs on any changes, developments, and new information that might affect their work at the site.</li> <li>○ Receive feedback from field IHs on suggestions for future sampling, worker and employer feedback, potential hazards identified, etc.</li> <li>○ Determine sampling equipment and media needs, other equipment needs, as well as any PPE or decontamination needed by the field IHs.</li> <li>○ Address any other concerns raised by the field IHs.</li> </ul>
			Communicate and coordinate with the Logistics Group on any administrative issues which might affect the field IHs, general office supplies needs, as well as non-technical, and communication equipment, and transportation.
			Ensure that field IH's carry and know how to use any necessary communication equipment.
			Ensure that samples are packaged and transported to Laboratory for analysis in accordance with established sampling protocol.
			If necessary, coordinate with Logistics Group to determine how best to submit samples to the laboratory.
			Ensure that samples, sample banks, and sampling forms are properly prepared and that samples and blanks are properly packaged.
			Create a sample logbook and log all samples collected/shipped by analyte (e.g., metals, organics, silica) and type (e.g., personal, area, bulk, blank, wipe).
			Notify the analytical laboratory of the number and type of samples

<b>RESPONSE CHECKLIST: SAMPLING COORDINATOR</b>			
			that were shipped.
			Coordinate sampling duties in accordance with current sampling strategy.
			If necessary, assist Health Risk Assessment/Monitoring Coordinators in preparing any presentations and in ensuring adequate coverage at any intra-Agency meetings.
			Act for the Health Risk Assessment /Monitoring Coordinator in their absence.

**PPE Coordinator Response Checklist**

<b>CHECKLIST: PPE COORDINATOR RESPONSE</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	
			Coordinate with OSHA Incident Command - identify OSHA Incident Commander and other OSHA function leaders.
			Identify PPE needs: <ul style="list-style-type: none"> <li>o Discuss site hazards and operations with Risk Assessment Coordinators.</li> <li>o Determine PPE requirements based on operations and risk assessment.</li> <li>o Determine need for PortaCounts and related supplies.</li> </ul>
			Identify PPE and related suppliers: <ul style="list-style-type: none"> <li>• Limit selection of PPE for inventory control.</li> <li>• Manufacturers (e.g., 3M, MSA, North, TSI).</li> <li>• Major suppliers [e.g., CTC, Grainger, Lab Safety, PortaCount supplies (alcohol, tubing, adapters, cleaners), computers and peripherals].</li> <li>• Agency and non-agency PortaCount sources.</li> </ul>
			Develop communications with major players: <ul style="list-style-type: none"> <li>• Medical evaluation provider.</li> <li>• Suppliers.</li> <li>• Customers (OSHA, contractors, rescue workers, other agencies).</li> <li>• Other OSHA function leaders .</li> </ul>
			Coordinate delivery of equipment and supplies - GSA, National Guard, local government administrative services, Salvation Army.
			Coordinate with OSHA Incident Commander and other Agencies on site to arrange for adequate, visible and accessible space for PPE operations and supply storage: <ul style="list-style-type: none"> <li>• Easily accessible to the workers, deliveries and operations center staff.</li> <li>• Operations center - ~ 60' trailer or ~ 750sq. ft.</li> <li>• Immediate supply for two days at operations center.</li> <li>• One week supply at remote location (~ 500sq. ft.)</li> <li>• Intra-incident transportation (4X4, van, ATV).</li> </ul>
			Determine a need for and establish remote distribution sites.
			Determine a need for and arrange for mobile distribution.
			Arrange for telephone service: a minimum of three lines (2 phone, 1 fax) and two telephones.
			Ensure adequate supplies to support operations center activities - direct local purchase of routine maintenance supplies (e.g., cleaners, mops, paper towels, office supplies).
			Coordinate with the OSHA Incident Commander and other OSHA function leaders to publicize location of PPE operations center using signs and through communication with other agencies.

CHECKLIST: PPE COORDINATOR RESPONSE			
Yes	No	N/A	
			Develop schedules and determine staffing needs based on site work schedule. Coordinate with RA and OSHA Incident Commander to ensure OSHA personnel are available to staff PPE distribution centers.
			Train PPE staff to use PPE and related equipment - e.g., PortaCount, computer, laminator, printer, radio communication, mop.
			Direct activities of PPE staff: <input type="checkbox"/> Assignment of work. <input type="checkbox"/> Identify site workers and the types of PPE required. <input type="checkbox"/> Operations center procedures. <ul style="list-style-type: none"> <li>o Function.</li> <li>o Emergency procedures.</li> <li>o Work flow.</li> <li>o Crowd control.</li> <li>o Inventory management.</li> <li>o Communication.</li> <li>o Cleaning.</li> <li>o Maintenance.</li> </ul>
			Advise the OSHA Incident Commander of all changes in status of resources assigned to the group.
			Develop and coordinate data management: <ul style="list-style-type: none"> <li>• Fit test records – weekly.</li> <li>• Fit test reports - as needed.</li> <li>• Fit-check vs. fit-test comparisons.</li> <li>• Equipment maintenance - daily and calibration.</li> <li>• PPE issuance.</li> <li>• Inventory control.</li> </ul>
			Re-evaluate PPE distribution (on-going). Coordinate with risk assessment and other coordinators.
			Monitor number of workers at the site and coordinate with the OSHA Incident Commander and other OSHA function leaders to continually evaluate the type and volume of PPE necessary for site personnel.

**Employer/Employee Liaison Response Checklist**

<b>CHECKLIST: EMPLOYER/EMPLOYEE LIAISON RESPONSE</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 24 hours:</b>
			Begin to identify stakeholders from the employer community and from among the unions represented.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours:</b>
			Identify OSHA EOC representative and share phone contact and e-mail information.
			Begin to identify and recruit stakeholders to assemble relevant leaders from contractors, unions, and agencies to discuss securing support for a labor-management partnership and an ongoing system for communication.

### Data Management Response Checklists

The checklists below relate to an emergency incident that has been characterized by OSHA management as extreme in terms of size, hazards to workers, and interest to the public. Should an OSHA response to such an incident involve significant environmental sampling to assess worker exposures, the following checklists may help in the management of data generated by the sampling activities.

<b>RESPONSE CHECKLIST: DOCUMENT MANAGEMENT - HEALTH DATA MANAGERS</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Initial Response (1st 48 hours):</b>
			Communicate with OSHA Health Risk Assessment/Monitoring Coordinator and identify the type of sampling that will be conducted and the type of sample results that will be maintained in the Spreadsheet.
			Assure a method is established to avoid duplicate sample submission numbers.
			Assure that sampling folders are created for each day samples are collected and that the original sampling forms and chain of custody information are placed in the folder at the time samples are prepared for shipment. When sample results are received, these reports should be added to the sampling folder.
			Coordinate with the OSHA Health Risk Assessment/Monitoring Coordinator and the Sample Management Coordinator to ensure that samples are prepared and shipped to the Lab via prescribed methods. Ensure documents such as include FEDEX slips, information faxed to the lab, etc. are placed in the appropriate sampling folder.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours – 1 week</b>
			Begin recording sampling results in chart form while a spreadsheet is being developed.
			Have OSHA computer liaison available to train/orient and begin to get the spreadsheet functional.
			Advise OSHA team members to immediately inform the OSHA team leader if sampling results show equal to or greater than half the PEL/TLV of a substance.
			Be prepared to characterize the environment in terms of sampling data and hazard.
			Be prepared to provide such characterization to MNOSHA personnel and senior agency staff.
			Coordinate with the OSHA Health Risk Assessment/Monitoring Coordinator to establish a standardized format for recording/organizing critical data (standardized language for information such as location, job title, applicable PPE worn/not worn, etc.). Communicate format to MNOSHA personnel on the site.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First week and beyond:</b>
			Once the site spreadsheet is functional – create reports that identify site

<b>RESPONSE CHECKLIST: DOCUMENT MANAGEMENT - HEALTH DATA MANAGERS</b>			
			sample results and characterize the worksite environment. Provide these reports as requested. Create reports appropriate for distribution to other internal and external stakeholders (unions, contractors, other government entities, media, and the public) as needed.
			Assure communication with the MDH Lab and Department personnel is occurring on a routine basis. Assure Communications personnel are advised of any problems found with draft Web postings submitted for approval. Assure Summary updates to the Web are occurring as necessary.

<b>RESPONSE CHECKLIST: DOCUMENT MANAGEMENT - DATABASE COORDINATORS</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours – 1 week:</b>
			Create a sample spreadsheet.
			Lab results are currently received electronically and will be entered into the spreadsheet as they are received.
			Communicate with OSHA team members to establish a standardized format for data entry.
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First week – 1 month:</b>
			Once spreadsheet is operational - coordinate with the OSHA Health Manager to create reports that summarize sample results and characterize the worksite environment.
			Train OSHA team members to use database.

<b>RESPONSE CHECKLIST: DOCUMENT MANAGEMENT - DATA ENTRY SPECIALISTS</b>			
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First 48 hours – 1 week:</b>
			Organize OSHA sampling data in a spreadsheet.
			Utilize a standard format for all entries.
			Advise the OSHA team leader when sample results are found to be greater than or equal to half of the PEL
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>First week – 1 month:</b>
			Once spreadsheet is operational – enter sample information and results in spreadsheet.



APPENDIX G

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**THE UNITED STATES DEPARTMENT OF LABOR**  
**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)**  
**and**  
**THE UNITED STATES CHEMICAL SAFETY**  
**AND HAZARD INVESTIGATION BOARD (CSB)**  
**on**  
**Chemical Incident Investigations**

**I. PURPOSE AND SCOPE**

The purpose of this Memorandum of Understanding (MOU) is to set forth the principles of the working relationship between the United States Chemical Safety and Hazard Investigation Board (CSB) and the United States Department of Labor, Occupational Safety and Health Administration (OSHA) in the area of chemical incident investigations. This MOU, entered into under the authority of section 112(r)(6)(E) of the Clean Air Act and the Occupational Safety and Health Act of 1970 (OSH Act), establishes policy and general procedures for cooperation and coordination between the two agencies and minimizes duplication of activities so that each agency may carry out its specific statutory requirements in an efficient and effective manner.

**II. BACKGROUND AND RESPONSIBILITIES**

A. OSHA

OSHA is the federal agency with primary responsibility for worker safety and health. OSHA is authorized by the OSH Act, 29 U.S.C. section 651 et seq., to promulgate and enforce mandatory safety and health standards for the purpose of assuring, so far as possible, safe and healthful working conditions for every worker in the United States.

OSHA conducts inspections of workplaces to determine compliance with the OSH Act and with specific OSHA standards. When violations of the OSH Act or OSHA standards are found, OSHA is authorized to issue citations to employers, propose penalties, and require abatement of hazards. OSHA investigates accidental releases in the chemical industries to determine whether any violations of its regulations have occurred and, if so, to require correction of those violations and ensure compliance with the OSH Act. OSHA also investigates accidental releases of chemicals to determine whether any other agency actions are necessary to enhance accident prevention efforts in the chemical industries.

Under section 18 of the OSH Act, states may elect to administer their own occupational safety and health programs, or "State Plans," which must be approved and monitored by federal OSHA. OSHA does not delegate authority to the states, but rather removes the bar of preemption through State Plan approval. OSHA exercises no enforcement authority in these states except in limited areas, such as providing safety and health coverage for federal agencies, maritime facilities, and military bases. Thus, in states that administer their own programs, the State Plan agency is the authority responsible for occupational safety and health enforcement, and other federal and state government agencies work with the State Plan agency in the same manner as they do with federal OSHA.

B. Chemical Safety Board (CSB)

The CSB is an independent agency authorized under section 112(r)(6) of the Clean Air Act to investigate chemical accidents to determine the conditions and circumstances which have led up to an accident and

to identify the cause or causes so that similar accidents might be prevented. The CSB is modeled on the structure, activities, and authorities of the National Transportation Safety Board that investigates transportation-related accidents. The chemical incidents, which the CSB investigates, are those which result from the production, processing, handling, or storage of chemical substances (not limited to extremely hazardous substances) causing death, serious injury, substantial property damage (including damage to natural resources), or evacuations of the public. These incidents may occur at fixed facilities or during transit.

The CSB has five enumerated duties: (1) to investigate serious chemical incidents and to report on the causes or probable causes of each incident; (2) to make recommendations to Congress, other federal agencies, state and local governments, and entities in the commercial and industrial sectors on the steps that can be taken to reduce the likelihood or consequences of chemical incidents, including the proposal of specific rules and orders to be issued by the Administrator of the United States Environmental Protection Agency and the Secretary of Labor to prevent or minimize the consequences of chemical incidents; (3) to establish requirements for reporting chemical incidents; (4) to conduct general studies and investigations where there is evidence of a potential hazard to human health or property as a result of accidental releases; and (5) to review and make recommendations on the role of hazard assessments and risk management plans in preventing chemical incidents.

### III. PRINCIPLES OF COORDINATION

OSHA and CSB will cooperate while carrying out their respective statutory responsibilities. Additionally, CSB and OSHA investigators will work with other federal, state, and local investigatory and response groups, to the extent permitted by law, to minimize duplication of effort and to ensure that response and investigation activities do not compromise the protection of worker or public safety and health. Where possible, OSHA and CSB will coordinate incident notification, data and information exchange, training, technical and professional assistance, and related activities to ensure the safety, health, and well-being of the Nation's workforce and the public. In recognition of the agencies' statutory authorities and responsibilities described above, the following procedures will be followed with respect to the investigation of chemical incidents:

#### A. Notification of Chemical Incidents

CSB and OSHA will be notified of chemical releases through the National Response Center (NRC) and other media. In addition, both agencies will notify each other of chemical incidents that meet one or more of the following criteria:

1. Result in one or more worker fatalities
2. Result in the hospitalization of three or more workers
3. Cause property damage of more than \$500,000
4. Present a serious threat to worker health or safety; or are events of significant public concern.

Notification will be made as soon as possible after one of the agencies has received such a report. The offices to be contacted during business hours are:

CSB  
Incident Operations Center

OSHA  
Director of Compliance Programs

202/261-7600  
Fax: 202/261-7650

202/219-9308  
Fax: 202//219-9187

During non-business hours, OSHA will contact the CSB by calling the National Emergency Coordination Center at 1-800-634-7084. The CSB will contact OSHA by calling OSHA's emergency number at 1-800-321-OSHA.

When a chemical incident occurs meeting the criteria above, each agency will determine whether it intends to send representatives to the chemical incident and will notify the other agency of its intent as soon as possible. If both agencies decide to send representatives to the incident, the representatives from both agencies will meet as soon as possible with other accident, response, regulatory, and investigatory agencies to coordinate on-site activities consistent with each agency's specific statutory responsibilities.

#### B. Investigation of incidents

OSHA's primary goal following a chemical incident will be to determine compliance with the OSH Act and OSHA regulations. CSB's primary goal will be to determine the cause(s) or probable cause(s) of the incident. The CSB will use an "all cause" approach in discharging its investigatory duties of chemical incidents, since all circumstances contributing to an incident (and which may effectively be modified to improve safety) are of concern to the CSB.

Nothing in this MOU prohibits the CSB from investigating worker health and safety issues involved in chemical incidents to help determine the conditions and circumstances which led up to the incident and to identify the cause or causes of the incident so that similar incidents may be prevented. Additionally, nothing in this MOU commits either agency to investigate any particular chemical incident.

In the event of a dispute between CSB and OSHA investigators, the matter will be promptly referred to the appropriate individuals in the agencies' headquarters for resolution.

This MOU is not intended to and does not affect or govern any criminal investigation. In the event that the potential for criminal prosecution exists with respect to a particular accident, OSHA and CSB will coordinate with each other to ensure the maximum cooperation with criminal investigators.

#### C. Information and Data Sharing

Consistent with each agency's statutory responsibilities, OSHA and CSB will coordinate their fact-finding efforts. The CSB on-site representatives may discuss factual data pertaining to an incident with other on-site agencies.

The CSB is an independent agency, however, tasked with certain oversight responsibilities; it is not an enforcement agency. To ensure that during the conduct of an investigation the CSB is not to be perceived as an extension of a state or federal enforcement investigation, its investigative activities will be separate and distinct from those of other on-site agencies. Interviews of witnesses and requests for documents will be conducted or requested separately by the CSB unless the company or person(s) involved request otherwise. While the CSB will cooperate with other on-site entities, its focus is different and its interaction with all parties must and will be distinct from the activities of enforcement agencies.

The CSB Office of General Counsel or the Office of the Solicitor of Labor prior to release of the documents or evidence must approve all requests by CSB or OSHA to review or copy documents or other evidence in the possession of the other agency.

Employees involved in a chemical incident who participate in an incident investigation will be provided protection under section 11(c) of the OSH Act from discrimination or reprisal for filing reports of unsafe or

unhealthful working conditions. In addition, employees involved in incident investigations are entitled to protection from discrimination pursuant to Clean Air Act section 322. The Department of Labor administers these provisions. In particular, in order to protect witness confidentiality, OSHA and CSB will remove names and personal identifiers of the persons who provided information from their investigative files before releasing them to the public.

Each agency will be responsible for the public release of its documents and for maintaining the information that it has collected. Each agency will respond to requests for disclosure of material, including Freedom of Information Act requests, and will coordinate with the other agency as necessary to ensure that the proper disclosure and exemption criteria are applied.

#### D. Training, Technical and Professional Assistance

CSB and OSHA will make their chemical incident and related training programs available to personnel from both agencies. OSHA and CSB will provide technical and professional assistance to each other during chemical incident investigations upon request and as resources permit.

#### E. Incident Investigation Reports

CSB will produce public reports as a result of its on-scene chemical incident investigations. These reports will recommend measures to reduce the likelihood or the consequences of accidental chemical releases and propose corrective steps to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible. These reports may include recommendations by CSB concerning rules OSHA should issue to prevent or minimize the consequences of any release of substances that may cause death or injury, or may have other serious adverse effects on worker safety and health.

To the extent possible CSB will coordinate its public statements, the timing of Board meetings, and the release of public reports with OSHA, so that such actions do not hinder or jeopardize on-going enforcement actions by OSHA.

In addition to agency reports, both CSB and OSHA may use other methods for disseminating information gained from their chemical accident investigations, such as special notices, accident data summaries for relevant industry sectors, presentations to industry trade associations, and posting of findings and lessons learned on CSB's or OSHA's Internet Home Pages. Prior to the release of its report, the CSB may also issue interim safety bulletins to the company or industries involved or other documents to industry and other federal agencies in order to ensure the safe operation of facilities producing, processing, handling, or storing chemical substances.

#### F. Inter-Agency Assistance

In certain instances, CSB may decide not to send an investigation team to the site of a chemical incident. Rather, CSB may collect incident information from the on-site agencies. The CSB will use this information, as well as data that it has collected from other sources, to analyze the incident and to determine whether further actions by CSB are necessary. See 42 U.S.C. section 4712(r)(6)(C).

If the CSB requests information from on-site OSHA officials, OSHA will cooperate to the extent permitted by law and provide information to CSB regarding its investigative activities. OSHA shall furnish such information without expense to the CSB. The CSB will not ask OSHA to investigate events that OSHA has not independently chosen to investigate, nor will the CSB request OSHA to perform investigative activities outside the scope of OSHA's normal practice and statutory authorities.

#### IV. OSHA-APPROVED STATE PLANS

##### A. Background

OSHA-approved State Plans operate under authority of state law. State standards, interpretations, regulations, and policies are adopted under state occupational safety and health, administrative procedures and other statutes, are enforceable by the state upon adoption, and are required to be "at least as effective" as federal equivalents. State law governs the release of agency records, documents, and other information.

State Plans provide OSHA coverage to both public (state and local government) and private employment sectors in 23 states. Two additional State Plans cover public employees only. OSHA has suspended or relinquished its concurrent enforcement authority in 22 of the 25 states, except in areas specifically excluded from the State Plan. All State Plans have adopted a Process Safety Management standard that is identical to or at least as effective as the federal standard.

##### B. State Plan Coordination with CSB

This MOU establishes the principles for federal OSHA and CSB coordination when conducting concurrent chemical incident investigations. States may agree to accept the terms established in this MOU or may enter into separate agreements with the CSB. Unless modified by a specific, separate agreement between the CSB and a State Plan, the CSB will coordinate its investigative activities with a State Plan state and follow the general terms and conditions agreed to in this federal Memorandum.

#### V. RESOURCES

Responsibility for the costs of investigative resources, such as evidence collection, testing, sampling, and site security, will be borne individually by each agency unless a specific written agreement is reached on a particular investigation.

#### VI. POINTS OF CONTACT

The following personnel are designated as the key policy officials for their respective agencies for the purpose of investigations. These key officials are the principal points of contact between the parties in the performance of this MOU.

CSB  
Director - Office of Investigations  
Telephone: 202/261-7600

OSHA  
Deputy Assistant Secretary for Enforcement  
Telephone: 202/219-7162

#### VII. PERIOD OF AGREEMENT

This MOU shall continue in effect unless modified in writing by the parties. Either party may terminate it upon 30 days' advance written notice to the other.

This MOU does not preclude either agency from entering into further agreements setting forth procedures for additional programs, which can be addressed more efficiently and expeditiously, by special agreement.

#### VIII. IMPLEMENTATION

Nothing in this agreement is intended to diminish or otherwise affect the authority of either agency to implement its respective statutory functions, nor is it intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person. This agreement is effective upon signature by both parties.

Charles N. Jeffress  
Assistant Secretary for  
Occupational Safety & Health  
U.S. Department of Labor

Paul L. Hill, Ph.D.  
Chairman  
U.S. Chemical Safety and  
Hazard Investigation Board