

**OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

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**PROGRAM DIRECTIVE**

Program Directive: A-287

Issued: October 9, 2013

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- SUBJECT:** Victim’s Family Communication: Oregon OSHA Fatality Inspection Procedures
- PURPOSE:** To provide guidance to ensure Oregon OSHA communicates its fatality inspection procedures to the victim’s family and facilitates the exchange of information throughout the entire inspection process.
- SCOPE:** This applies to all of Oregon OSHA.
- REFERENCES:** CPL 02-00-166, Communicating OSHA Fatality Inspection Procedures to a Victim’s Family, July 7, 2021
- Oregon OSHA Field Inspection Reference Manual (FIRM)
- BACKGROUND:** This document provides guidance for communication with the next of kin following a workplace fatality. Oregon OSHA places a high priority on fatality inspections, which demand a high degree of sensitivity and investigative accuracy. Only trained and experienced Oregon OSHA representatives should be assigned to interact with families of the deceased. Historically, Oregon OSHA has communicated with surviving family members both to express sympathy and to gather information about the deceased and the work they performed. This instruction guides the communication with the next of kin to ensure they are treated with the utmost respect.
- When this document makes reference to the ‘compliance officer,’ the associated task should be fulfilled by the compliance officer assigned to the fatality investigation unless they are not available or otherwise cannot perform the expected communication with the family. When this occurs, the responsibility is transferred to the assigned compliance officer’s supervisor.
- DEFINITIONS:** Fatality: A worker death resulting from a work-related incident or exposure; in general, from an incident or an illness caused by or related to a workplace hazard.

Next of Kin: Individual(s), often a family member, listed as the emergency contact(s) on the victim's employment records; another person identified by the employer if an emergency contact is not identified on the employment records or no such record exists; or a representative designated by the next of kin.

**TRAINING:** Oregon OSHA compliance officers and field office enforcement managers attend several training courses relevant to fatality inspections, including Accident Investigation & Investigative Interviewing. Oregon OSHA personnel involved in fatality inspections and in communicating with the next of kin complete training in accordance with Oregon OSHA Policy & Procedure #13, Required Initial Training /-Staff Education and Training Program for Oregon OSHA Staff.

**COMMUNICATION WITH  
THE NEXT OF KIN:**

Oregon OSHA places a high priority on communicating with next of kin after a workplace fatality. Care must be taken to ensure sensitivity and tact are exercised during all communications. Interactions with the next of kin can typically be accomplished by using a “three-phase approach,” which includes initial communication, follow-up communications throughout the inspection, and post-inspection communications. This will ensure that Oregon OSHA receives the necessary information about the victim, job history, co-workers, and keeps the next of kin informed from the beginning of the inspection and through the progression of the inspection until the case is closed or becomes a final order.

**NOTE:** Where Oregon OSHA is not able to identify the victim’s next of kin, the assigned compliance officer shall fully document all attempts in the case file. Additionally, Oregon OSHA should ensure that all procedures are followed, as per Chapter 5, 8, and 9 of the Field Inspection Reference Manual (FIRM).

If the victim’s next of kin does not want to speak or interact with the assigned compliance officer or anyone else at Oregon OSHA or declines to participate in the exchange of information either initially or during the inspection, their wishes should be respected. However, the compliance officer must notify their supervisor of the next of kin’s wishes and make a notation in the case file. The compliance officer should provide the next of kin with their point of contact information and notify them that they may inquire about the status of the case at a later date, if desired.

**NOTE:** All communication with the next of kin, including the Statewide Safety/Health Enforcement Manager condolence letter, will be documented in the case file.

**A. Initial communication with the next of kin**

Prior to any initial communication (written or verbal), Oregon OSHA, through the assigned compliance officer, should verify, through interviews with the employer and/or local authorities, that the next of kin has been previously notified of the fatality.

1. Condolence letter: The first Oregon OSHA contact with the family should be the initial condolence letter, also known as the ‘Statewide Safety/Health Manager Condolence Letter’ (see Appendix A when an investigation is assigned or see Appendix B when there is no investigation).

After the compliance officer has received the next of kin information that include the next of kin(s) mailing address and has entered it into OTIS, the appropriate version of the ‘Statewide Safety/Health Enforcement Manager Condolence Letter’ will be sent by the central office within 10 calendar days of the initial fatality notification.

**NOTE 1:** The federal liaison in the central office must be promptly notified of all fatality notifications received by Oregon OSHA.

**NOTE 2:** In some circumstances, it may not be appropriate to follow these initial communication condolence letter procedures (e.g., in the case of a small business, the owner or supervisor may be a relative of the victim). The form letter should be modified to take any special circumstance into account or a form letter should not be sent. If a letter is not sent, the compliance officer will explain the rationale in the case file.

2. Contacting the next of kin: After the ‘Investigation: Statewide Safety/Health Manager Condolence Letter’ (see Appendix A) is sent, Oregon OSHA, through the assigned compliance officer, will contact by telephone the next of kin to request work-related information concerning the fatality and encourage the next of kin to contact Oregon OSHA with any additional information. If an initial phone communication is not made, the compliance officer will explain the rationale in the case file.

The compliance officer will contact the next of kin early in the inspection process, typically within 5 to 10 working days of the opening conference. The compliance officer will respond in a professional, courteous, and timely manner regarding any questions or concerns raised by the next of kin during the investigation. The fatality inspection investigative process will be explained so that the next of kin understands the role of Oregon OSHA.

**NOTE:** During the initial conversation with the next of kin, the compliance officer must determine if it is the appropriate time to explain Oregon OSHA's fatality inspection process. If it is not the appropriate time, the compliance officer will inquire if there might be a better time to talk and provide the next of kin with point of contact information, while briefly explaining the nature of future communications with the agency.

The compliance officer should ensure the following is explained to the next of kin about Oregon OSHA's inspection process and the potential outcomes of the inspection:

- a. Oregon OSHA inspects the worksite(s) where fatalities have occurred to determine whether a violation of Oregon OSHA safety and health standards has occurred, and what effect the alleged violation had on the incident.
- b. These inspections are most often limited to safety and health hazards associated with the fatality. The inspection may take up to six months to complete.
- c. If Oregon OSHA finds that the employer violated safety and health standards, the agency may issue citations against the employer. Oregon OSHA does not issue citations solely because there was a workplace fatality.
- d. If Oregon OSHA finds that the employer violated safety and health standards, the agency may issue a citation, which may be associated with a civil penalty. Civil penalties are applied in accordance with Oregon Administrative Rules depending on the alleged violation. Civil penalties are not assessed based on the sole discretion of the compliance officer.

Additionally, civil penalty amounts that Oregon OSHA proposes are not based on the occurrence of a fatality, instead the primary considerations in determining civil penalties are rooted in an assessment of the probability and the severity of an injury event occurring prior to the incident that did occur.

**NOTE:** The next of kin should be informed that they will not be told either the specific rule being cited or the associated civil penalty amount (should there be one) until after the citation has been delivered to the employer.

- e. The compliance officer will explain that the case file, after received and processed in Oregon OSHA's central office, will be made available to the next of kin after the employer has received their citation or if there is a determination there were no violations and a citation was not issued.
- f. Once a final order is issued, the next of kin will be afforded the opportunity to discuss the case with an Oregon OSHA representative, which could include the compliance officer, their supervisor, or a Statewide Enforcement Manager.
- g. At any time during the inspection and throughout the inspection process, the next of kin may contact the compliance officer, their supervisor, or a Statewide Enforcement Manager to inquire about the status of the case or to ask questions.
- h. Potential for a Press Release. The compliance officer should explain that Oregon OSHA has a press release policy and that this inspection may qualify for a press release issuance after the conclusion of the investigation. If it is the desire of the next of kin that Oregon OSHA does not issue a press release, the compliance officer must note that in the inspection file and promptly notify their supervisor and a Statewide Health or Safety Enforcement manager. The Statewide Enforcement manager will inform the other members of the Core management team, including Oregon OSHA's public information officer.

- i. Role of Law Enforcement. The compliance officer should explain that generally, first responders such as local police and/or fire personnel arrive at the incident scene within minutes of the event. If local law enforcement determines that foul play did not contribute to the incident, they will release jurisdiction of the site to Oregon OSHA for inspection. Oregon OSHA will determine whether any workplace health or safety laws were violated, while law enforcement consider possible criminal matters.

**NOTE:** The compliance officer will explain that Oregon OSHA can only make a referral for criminal prosecution under ORS 654.991(1) when a willful violation materially contributed to the death of an employee.

- j. Role of Medical Examiner (ME) and/or Coroner. The compliance officer should explain that the ME/coroner identify possible causal factors related to some workplace fatalities. The ME/coroner's report is also independent of Oregon OSHA's inspection. In some cases, Oregon OSHA will obtain information from the ME/coroner as part of the inspection; however, these reports may not be ready to release to the compliance officer before the 180 day statutory requirement for Oregon OSHA to issue a citation, when appropriate. In these situations, the ME/coroner report may not be obtained.

## **B. Follow-up communication with next of kin**

Follow-up communications are vital to the exchange of information. These communications allow Oregon OSHA to provide updates on the status of the inspection and provide the next of kin with an opportunity to ask questions. However, Oregon OSHA must not divulge any privileged information (such as the names of potential witnesses, specific rules being cited or civil penalty amounts) during the course of these discussions. This exchange should occur periodically until the inspection is completed and findings are communicated to the next of kin.

Oregon OSHA's commitment to exchange information with the next of kin will be as follows:

1. Updated information to the next of kin should continue on a periodic basis, as the compliance officer or their supervisor deems appropriate, such as every 30 days or at a time agreed to between the compliance officer and the next of kin.
2. The compliance officer will explain various aspects of the inspection, Oregon OSHA citations and penalties, the employer's informal conference process, the employer's appeals process and Oregon Public Records Law issues.
3. All oral communications with the next of kin will be noted in the inspection file.

**C. Post-inspection communications**

After an inspection with citations has been delivered to the employer or when an inspection without citation is closed, the compliance officer will make every effort to contact the next of kin by telephone to explain findings and address questions.

1. No Proposed Citations

If citations are not issued, the compliance officer will explain the findings of the inspection during the post-inspection telephone conversation. Additionally, the compliance officer should be prepared to discuss and explain the following:

- a. Oregon OSHA does not issue citations solely because there was a workplace fatality.
- b. Oregon OSHA inspected the worksite(s) to determine whether a violation of Oregon OSHA safety and health standards had occurred. The workplace inspection found no alleged violation(s) of safety and health standards and, as a result, no citations were issued to the employer.
- c. The compliance officer should make the next of kin aware of the Oregon Public Records Law, as it pertains to Oregon OSHA's inspection file.

- d. Within ten calendar days of closing the case **without citations**, the central office will send the ‘Inspection Findings & Next of Kin Closure Letter – No Proposed Citations’ (see Appendix C) to the next of kin.

2. Proposed Citation

After confirmation that the employer has received the citations (citation has been delivered), the compliance officer should begin post-inspection communications with the next of kin to explain the alleged violation(s), proposed civil penalties, any penalty reduction factors, violation classification, abatement requirements, settlement procedures, and the Oregon Public Records Law requests, as it pertains to Oregon OSHA’s inspection. The compliance officer should explain that communications between Oregon OSHA and the next of kin will continue until the case becomes a final order of the Oregon Worker Compensation Board. Periodic communications with the next of kin should reflect a time agreed to between the compliance officer and the next of kin.

**NOTE:** Compliance officers should emphasize that although civil penalties were proposed, penalties under the Oregon Safe Employment Act are not based on the occurrence of a fatality. Instead, severity of injury and probability of occurrence are considered in determining the penalty amount in accordance with Oregon Administrative Rules and are not at the discretion of the compliance officer. Additionally, when applicable, the compliance officer should clarify penalty adjustment factors for history, faith, complied with during the inspection that was substantial, and size. Furthermore, the compliance officer should explain that the employer is required to correct all **serious** hazards cited even when the employer has exercised their appeal rights.

- a. Within ten calendar days of the employer receiving the inspection **with citations** (confirmed through the delivery date in OTIS), the central office should send the ‘Inspection Findings Letter– Proposed Citation(s)’ (see Appendix D) to the next of kin.

3. Final Order or Settlement Agreement

Upon receipt of a final order resulting from a signed settlement agreement, the appeals section of Oregon OSHA will notify the central office (Records Management Unit) who will send the 'Final Order / Case Closure Letter – Proposed Citation(s)' (see Appendix E) to the next of kin informing the next of kin of the settlement and explain the outcome if there were changes to the original citation. Issues associated with the settlement agreement (i.e., amended abatement dates, reclassification of violations, and the modification or withdrawal of a penalty, a citation, or a citation item) may be discussed.

**History:** Issued 10-9-2013; Revised 6-3-2014, 7-10-2024

## APPENDIX A

### INVESTIGATION: STATEWIDE SAFETY/HEALTH ENFORCEMENT MANAGER CONDOLENCE LETTER

Dear \_\_\_\_\_,

On behalf of the Oregon Occupational Safety and Health Division (Oregon OSHA), I would like to express our sympathy to you, the family, and the friends of (victim name).

Our (specific field office) is conducting an investigation. If you have any questions, or if you or someone else has information pertinent to the investigation, please call (investigating officer) at (field office phone number).

The final report can be released after the report is received in our Central Office and there are no violations or (employer name) has received the citation. A citation is issued if the investigation determines statutes and/or administrative rules governing safety and/or health in the workplace have been violated. Please call the Records Management Unit at (503) 378-3272 if you desire a copy of the report, appeal letters, results of informal settlements, or any other actions taken as a result of this investigation.

Oregon OSHA inspects worksite(s) where fatalities have occurred to determine whether a violation of Oregon OSHA safety and health standards has occurred and what effect the alleged violation had on the accident. These inspections are most often limited to safety and health hazards associated with the fatality and may take up to six months to complete. If we find that the employer violated safety and health standards, the agency may issue citations against the employer. Oregon OSHA does not issue citations solely because there was a workplace fatality. At any time during the inspection and throughout the inspection process, the next of kin may contact the local Oregon OSHA office to inquire about the status of the case or to ask questions. Upon issuance of a final order, the next of kin will be afforded the opportunity to discuss the case with an Oregon OSHA representative.

In addition, beneficiaries may be entitled to workers' compensation benefits. If you wish to initiate a claim, please contact the employer or their workers' compensation insurer. There are time limits for filing a claim. For assistance in understanding your rights, you may contact the Ombudsman for Injured Workers at (503) 947-7031 or (800) 927-1271 ext. 7031.

Again, I offer my sincere condolences.

Sincerely,

Statewide Safety/Health Enforcement Manager

cc: Ombuds Office for Oregon Workers

## APPENDIX B

### NO INVESTIGATION: STATEWIDE SAFETY/HEALTH ENFORCEMENT MANAGER CONDOLENCE LETTER

Dear \_\_\_\_\_,

On behalf of the Oregon Occupational Safety and Health Division (Oregon OSHA), please accept my sympathy in the accident of (victim name).

Because of the nature of the fatality, it does not appear that the cause was a direct violation of our occupational safety and health rules. Therefore, an investigation will not be conducted at this time.

Beneficiaries may be entitled to workers' compensation benefits. If you would like to initiate a claim, please contact the employer or their workers' compensation insurer. There are time limits for filing a claim. For assistance with understanding your rights, you may contact the Ombudsman for Injured Workers at (503) 947-7031 or (800) 927-1271 Ext. 7031.

If you have any questions or if you or another family member has information pertinent to the accident, please call me at (503) 378-3272.

Again, I offer my sincere condolences to you and your family.

Sincerely,

Statewide Safety/Health Enforcement Manager

cc: Ombuds Office for Oregon Workers

**APPENDIX C**

**INSPECTION FINDINGS AND NEXT OF KIN CLOSURE LETTER – NO PROPOSED CITATION**

Dear \_\_\_\_\_,

We are writing to share with you the findings of the recent Oregon Occupational Safety and Health Administration (Oregon OSHA) inspection into the death of [victim's name].

Oregon OSHA inspects the worksites where these tragedies have occurred to determine whether a violation of Oregon OSHA safety and health standards occurred. These inspections are most often limited to the area in which the fatality occurred. If Oregon OSHA finds that the employer violated safety and health standards, the agency may issue citations against the employer. However, Oregon OSHA does not issue citations solely because there was a workplace fatality.

Oregon OSHA inspected the worksite(s) of **[name of company]** to determine whether a violation of Oregon OSHA safety and health standards related to the accident had occurred. The workplace inspection found that no alleged violation(s) of safety and health standards had occurred related to the accident, and therefore, no citations or proposed penalties were issued to the employer.

I would like to express to you my deepest sympathy. If you have any questions about our inspection, please contact:

Local Field Office Manager  
Street Address  
City, State ZIP  
Telephone:  
E-Mail:

Oregon Public Records Law governs the release of information concerning accident inspections conducted by Oregon OSHA. The releasable portions of the file will be made available to you upon request.

Sincerely,

Statewide Enforcement Manager

**APPENDIX D**

**INSPECTION FINDINGS LETTER – PROPOSED CITATION(S)**

Dear \_\_\_\_\_,

We are writing to share with you the findings of the recent Oregon Occupational Safety and Health Administration (Oregon OSHA) inspection into the death of [victim's name].

Enclosed is a copy of the citations and proposed penalties against [**name of company**]. Oregon OSHA citations state the alleged violations of safety and health standards at the worksite.

We would like to emphasize that under the Occupational Safety and Health Act, penalties that Oregon OSHA imposes are not based on the occurrence of a fatality. Instead, the gravity of the violation, which factors in severity of injury and probability of occurrence, is one consideration in penalty calculation. Penalties may be reduced from the maximum allowable by law based on the company's size.

I would like to express to you my deepest sympathy. If you have any questions about our inspection or any of the information enclosed, please contact:

Local Field Office Manager  
Street Address  
City, State ZIP

Telephone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

The Oregon Public Records Law governs the release of information concerning accident inspections conducted by OR-OSHA. The case file will be made available to you upon request.

Sincerely,

Statewide Safety/Health Enforcement Manager

**APPENDIX E**

**FINAL ORDER / CASE CLOSURE LETTER – PROPOSED CITATION(S)**

Dear \_\_\_\_\_,

We are writing to share with you the post-inspection and abatement results of the Oregon Occupational Safety and Health Administration (Oregon OSHA) inspection of (COMPANY NAME), and to inform you that the case has been closed as of (FINAL ORDER DATE). (INSERT FINAL ORDER/ABATEMENT SUMMARY)

We would like to emphasize that under the Occupational Safety and Health Act, penalties that Oregon OSHA imposes are not based on the occurrence of a fatality. Instead, the gravity of the violation, which factors in severity of injury and probability of occurrence, is one consideration in penalty calculation.

Oregon Public Records Law governs the release of information concerning accident inspections conducted by Oregon OSHA. The case file will be made available to you upon request.

If you have any questions about the inspection, please contact me.

Sincerely,

Statewide Safety/Health Enforcement Manager

**APPENDIX F**

**Oregon OSHA BASIC FATALITY INSPECTION COMMUNICATION PROCESS**

<b>PHASES</b>	<b>STAGES</b>	<b>ACTIONS</b>
<b>INITIAL COMMUNICATION</b>	After incident and within 10 workdays of opening conference	Central Office sends the ‘Investigation / Statewide Enforcement Manager Condolence Letter’ (See Appendix A)
		Central Office sends the ‘No Investigation / Statewide Enforcement Manager Condolence Letter’ (See Appendix B)
<b>FOLLOW-UP COMMUNICATIONS</b>	Throughout inspection	Compliance Officer periodically exchanges general information with next of kin. Specific information about proposed citation(s) or penalty amounts are not shared during this phase.
	No proposed citation	
	Citation(s) proposed	
<b>POST-INSPECTION COMMUNICATIONS</b>	Communicate inspection findings with next of kin	
	No proposed citation	Central Office sends the ‘Inspection Findings & Next of Kin Closure Letter – No Proposed Citation’ (See Appendix C)
	After delivery confirmation of citation(s) to the employer	Central Office sends the ‘Inspection Findings Letter – Proposed Citation(s)’ (See Appendix D)
	After case becomes final order	Central Office sends the ‘Final Order / Case Closure Letter – Proposed Citation(s)’ (See Appendix E)