

CHAPTER 5

COMMUNICATION WITH DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, COMPLIANCE OFFICE, OR THE PRESSURE VESSEL UNIT

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CHAPTER 5

COMMUNICATION WITH DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, COMPLIANCE OFFICE, OR THE PRESSURE VESSEL UNIT

1. PURPOSE. This chapter describes the process to follow when a command receives a complaint letter from the Department of Industrial Relations, Division of Occupational Safety and Health (Cal/OSHA), Compliance Office; a preliminary order from the Cal/OSHA, Pressure Vessel Unit (PVU); or an inspection by the Cal/OSHA, Compliance Office. It also addresses the regulatory requirement for emergency responders to contact Cal/OSHA when a death or serious injury or illness is the result of an accident.

2. COMPLAINT LETTER.
 - a. Alleged Unsafe Condition. The Cal/OSHA, Compliance Office, may issue a complaint letter alleging an unsafe condition in the command. The command is required to investigate the alleged condition and respond to the Cal/OSHA, Compliance Office, in writing within 14 calendar days. The response should state whether the alleged condition exists and should address one of the following:
 - (1) The corrective action(s) taken and date of completion, or
 - (2) The corrective action(s) to be taken and the estimated date the action(s) shall be completed. This shall include applicable measurements or monitoring results, invoices for equipment purchases, photographs, or videos, or other evidence which the employer believes would specifically document correction of the alleged hazard.

 - b. Routing. Upon receipt, the command shall immediately forward a copy of the complaint letter to its Division and the Office of Risk Management, Occupational Safety Unit (OSU). The command should coordinate its response with the OSU.

 - c. Posting. A copy of the complaint letter and a copy of the command's response are to be posted in a prominent location in the command, readily accessible for employee review, for a minimum of three days or until the unsafe condition is corrected.

 - d. Inspection. If the command does not satisfactorily respond within 14 calendar days upon receipt of the complaint letter, the Cal/OSHA, Compliance Office, shall conduct an inspection.

3. PRELIMINARY ORDER FROM DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, PRESSURE VESSEL UNIT.

- a. Unsafe Condition. The Cal/OSHA, PVU, may issue a preliminary order to eliminate an unsafe condition which is in violation of statutory and regulatory authority. The command is required to investigate the alleged condition and respond to the Cal/OSHA, PVU, in writing, indicating the corrective action taken and the estimated date when the corrections shall be completed.
- b. Routing. Upon receipt, the command shall immediately forward a copy of the preliminary order to its Division and the OSU. The following Office of Primary Interest (OPI) shall be contacted depending on what type of equipment is affected.
 - (1) Diesel Generators and Fuel Storage Tanks–Facilities Section shall be notified.
 - (2) Propane Generators and Propane Tanks–Telecommunications Section shall be notified.
 - (3) Air Compressors and Tire Changing Machines–Fleet Operations Section shall be notified.

The command should coordinate its response with both the OPI and the OSU.

- c. Reinspection. Failure of the command to satisfactorily respond to Cal/OSHA, PVU, will result in a reinspection.

4. REASONS FOR DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, COMPLIANCE OFFICE, INSPECTIONS. The Cal/OSHA, Compliance Office, conducts inspections in response to the following:

- a. Complaints. Complaints alleging workplace hazards.
- b. Accidents. Accidents resulting in serious injury or exposure to a hazardous substance or fatality.
- c. Targeted Inspections. Targeted compliance inspections of high-hazard industries.
- d. Observations of Hazards. Observations of serious or imminent hazards.

5. PROCEDURES.

a. Authority. California Labor Code (CLC), Section 6314, establishes the authority of the Cal/OSHA, Compliance Office, as follows:

(1) The Cal/OSHA, Compliance Office, may conduct an inspection without providing advance warning.

(2) The inspection usually occurs during normal business hours but may occur any time employees are normally in the workplace.

(3) The Cal/OSHA Compliance Officer shall have free access to investigate and inspect the workplace within reasonable limits and in a reasonable manner.

b. Opening Conference.

(1) The Cal/OSHA Compliance Officer must present identification and should offer a business card.

(2) The Cal/OSHA Compliance Officer should meet with the highest-ranking manager or supervisor on site.

(a) If the manager, supervisor, or employee assigned supervisory responsibility in the absence of a regular supervisor is not available, the employee initially contacted by the Cal/OSHA Compliance Officer shall immediately notify the Command Safety Coordinator, an Occupational Safety Committee member, and/or the commander.

(b) If the individuals listed in paragraph (a) above are not immediately available, the next level of command should be contacted.

(c) The command shall advise both its Division and the OSU.

1 Headquarters commands shall contact OSU immediately, and OSU staff shall accompany the command representative and the Cal/OSHA Compliance Officer.

2 Field commands shall contact OSU upon completion of the inspection to give a summary of inspection findings.

(3) The Cal/OSHA Compliance Officer shall explain the California Occupational Safety and Health Act program, the nature and scope of the inspection, employee rights, and employer rights.

(4) The Cal/OSHA Compliance Officer shall review the command's:

- (a) Injury and Illness Prevention Program (IIPP).
- (b) Safety training records (three years plus current).
- (c) OSHA No. 300, Log and Summary of Occupational Injuries & Illnesses (five years plus current).
- (d) Injury, illness, and exposure reports (CHP 121, Employer's Report of Occupational Injury or Illness, and CHP 121A, Supervisory Review of Occupational Injury, Illness or Exposure) used for preparing the OSHA No. 300 Log (five years plus current).

NOTE: Personnel assigned supervisory responsibility in the absence of a regular supervisor shall explain to the Cal/OSHA Compliance Officer, Department policy limits access to these records to regular supervisors and managers. If the Cal/OSHA Compliance Officer desires to review these records, they should arrange to do so when a regular supervisor is available.

- (5) The Cal/OSHA Compliance Officer may review the command's:
 - (a) Occupational safety committee meeting minutes.
 - (b) Hazardous Substances Program (refer to Chapter 7 of this manual), including the command's hazardous substance list and accompanying Safety Data Sheets.
 - (c) Communicable Disease Exposure/Prevention and Acquired Immunodeficiency Syndrome Risk-Management (refer to Highway Patrol Manual [HPM] 70.2, Emergency Medical Services Manual, Chapter 11, Ergonomic Program).
 - (d) Emergency Action Plan, including the Fire Prevention Plan.
- (6) A representative of the union or employee organization has the right to participate in the inspection.

c. Inspection.

- (1) The Cal/OSHA Compliance Officer should conduct the inspection jointly with the highest-ranking manager or supervisor on site. The Cal/OSHA Compliance Officer may also request that an employee representative participate in the inspection.

(2) The Cal/OSHA Compliance Officer may identify any unsafe conditions in the workplace, including mechanical or physical hazards.

(3) The Cal/OSHA Compliance Officer may interview employees (who can decline to be interviewed) to determine their knowledge of the following:

(a) IIPP.

(b) Job-specific training.

(c) Hazardous substances with which they work and knowledge of SDS contents.

(d) Emergency Action Plan, including the Fire Prevention Plan.

(e) Potential exposure to injuries, illnesses, and exposures within the work environment.

(4) The Cal/OSHA Compliance Officer may discuss other safety and health concerns with employees (who can decline or request another employee participate in the interview), or their authorized representatives, in private, in accordance with CLC, Section 6314(d).

(5) The Cal/OSHA Compliance Officer may gather evidence (e.g., photographs, measurements, locations).

(6) The Cal/OSHA Compliance Officer shall inform the employer and affected employees of any condition or practice that creates an imminent hazard to the safety and health of the employees and shall issue an Order Prohibiting Use. The Order Prohibiting Use prohibits anyone from entering the area or using the machine or equipment that presents the hazard.

NOTE: If compliance with the Order Prohibiting Use would adversely impact the safety of any departmental employee or the public, the commander shall contact the next level of command to obtain direction whether to continue operations or to comply with the order.

d. Closing Conference.

(1) The Cal/OSHA Compliance Officer should meet with the same individuals present during the opening conference.

(2) The Cal/OSHA Compliance Officer shall discuss any unsafe condition or violation observed during the inspection and any corresponding written notification (e.g., citations, special orders).

- (3) The Cal/OSHA Compliance Officer should discuss possible actions that could be taken to correct the unsafe condition or violation.
- (4) The Cal/OSHA Compliance Officer should establish abatement dates.
- (5) The Cal/OSHA Compliance Officer should explain the appeal process.

6. NOTIFICATION TO DIVISION OF OCCUPATIONAL SAFETY AND HEALTH BY EMERGENCY AGENCIES RESPONDING TO AN ACCIDENT.

a. Reporting Requirements.

(1) California Labor Code, Section 6409.2 (Annex A), requires fire or police agencies responding to accidents involving death, serious injury or illness, or overnight hospital care other than for observation, except as listed below, shall immediately notify the nearest Cal/OSHA District Office by telephone. Telephone numbers of district offices are listed in HPM 10.7, Injury and Illness Case Management, Annex P-26, and on the Cal/OSHA Safety and Health Protection on the Job notice, contained in HPM 10.7, Annex P-22.

(2) In accordance with CLC, Section 6302 (Annex B), exceptions to CLC, Section 6409.2, are accidents which occur on a public street or highway; or any serious injury, illness, or death caused by commission of a California Penal Code (CPC) violation, except CPC, Section 385 (illegal operation of equipment adjacent to high-voltage overhead conductors).

b. Required Notification Information. In accordance with California Code of Regulations (CCR), Title 8, Section 342, Reporting Work-Connected Fatalities and Serious Injuries (Annex C), the following information, if available, shall be reported:

- (1) Time and date of accident.
- (2) Employer's name, address, and telephone number.
- (3) Name and badge number of officer reporting the accident.
- (4) Address or site of accident or event.
- (5) Name of person to contact at site of accident.
- (6) Name and address of injured employee(s).
- (7) Nature of injury(ies).
- (8) Location to where injured employee(s) was moved.

(9) Identification of all other law enforcement agencies personnel present at the site of the accident.

(10) Description of the accident and whether the accident scene or instrumentality has been altered.

7. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH NOTICES, CITATIONS, OR SPECIAL ORDERS.

- a. Notice in Lieu of Citation. In accordance with CCR, Title 8, Section 332.1— Issuance of Notice, a Notice in Lieu of Citation may be issued if the Cal/OSHA, Compliance Officer determines a violation exists which is not classified as willful, serious, repeated, or related to a failure to abate and the violation does not bear a direct relationship upon employee safety or health, or the violation bears a direct, but not immediate, relationship upon employee safety or health and is general or regulatory in nature.
- b. Citation. As defined in CCR, Title 8, Section 332, Form of Citation, a citation may be issued if the Cal/OSHA Compliance Officer determines a condition, device, or place of employment poses a threat to the health and safety of an employee under existing codes, standards, regulations, or orders. The information set forth on the citation includes the following: the name and address of the employer and the workplace inspected; the nature of the violation in specific terms with reference to the provision of the code, standard, regulation, or order alleged to have been violated; time allowed for correction of alleged violation; employee rights for violation correction; posting requirements; appeal time frames; and such information as the Cal/OSHA, Compliance Office, deems appropriate for clear understanding of the situation.
- c. Special Order. As defined in CCR, Title 8, Section 332.2, Issuance of Special Order, a special order may be issued if the Cal/OSHA, Compliance Office, determines an unsafe condition, device, or place of employment poses a threat to the health and safety of an employee which cannot be made safe under existing standards or orders of the Occupational Safety and Health Standards Board.
- d. Issuance Timeframes. The Cal/OSHA, Compliance Office, has six months from the date of the inspection to issue a written citation or special order in accordance with CLC, Section 6317.
- e. Civil Penalties. In accordance with CLC Sections 6427 and 6428, any employer who violates any occupational safety or health standard, order, or special order may be assessed a civil penalty of up to \$12,471 for each violation, unless that violation is a serious violation, in which case the amount may be up to \$25,000 for each violation.

- f. Routing. Upon receipt, the command shall forward copies of the notice, citation, or special order from the Cal/OSHA, Compliance Office, immediately to its Division and to the OSU.
- g. Coordination of Response. The command should coordinate its response to a notice, citation, or special order with the OSU.
- h. Occupational Safety Unit Assistance. The OSU shall provide commands with guidance on the requirements to post the notice, citation, or special order, and the subsequent response from the command.

8. DEFINITIONS.

- a. California Occupational Safety and Health Act. The Cal/OSHA was enacted in 1973 to reduce or eliminate and protect employees from unsafe occupational conditions within the State of California. This act is administered by the Department of Industrial Relations (DIR). California employee occupational safety standards are established and enforced under these provisions. To learn more about the requirements of California law for workplace safety and health, and the functions of the Cal/OSHA program, command occupational safety coordinators are encouraged to utilize the "User's Guide to Cal/OSHA" which can be found on the departmental Intranet site under the ORM, OSU.
- b. California Occupational Safety and Health Act Program. The program consists of four independent units within the DIR:
 - (1) The Occupational Safety and Health Standards Board adopts, amends, or repeals occupational safety and health standards and acts on applications for permanent variances from these standards.
 - (2) The Cal/OSHA, Compliance Office, which enforces the occupational safety and health standards by issuing notices, citations, and special orders; by proposing civil penalties; and by specifying the abatement changes that must be made to correct an unsafe condition.
 - (3) The Occupational Safety and Health Appeals Board which hears appeals from citations and special orders that are issued by Cal/OSHA.
 - (4) The Cal/OSHA Consultation Service provides free on-site consultations to employers, as well as advice and information regarding occupational safety and health to employers and employee groups. Commands are encouraged to utilize this service.

- c. California Code of Regulations, Title 8, Sections 1500 through 1962. These sections are known as Construction Safety Orders. These regulations were filed with the Secretary of State by the Director of the DIR under the Cal/OSHA of 1973. All employers within California must comply with these requirements.
- d. California Code of Regulations, Title 8, Sections 3200 through 6184. These sections are collectively known as General Industry Safety Orders. These Regulations were filed with the Secretary of State by the Director of the DIR under the Cal/OSHA of 1973. All employers within California must comply with these requirements.
- e. Pressure Vessel Unit. The Cal/OSHA, PVU, is authorized by, CCR, Title 8, Sections 7620 through 7771, and CCR, Title 8, Sections 450 through 560, to issue permits to operate air and liquefied petroleum gas tanks. The Cal/OSHA, PVU, is also responsible for conducting periodic inspections of these tanks to ensure compliance with minimum standards of operation.
- f. Serious Violation. As defined in CLC, Section 6432, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from the actual hazard created by the violation. The actual hazard may consist of, but is not limited to, a serious exposure exceeding an established permissible exposure limit, or the existence of one or more unsafe or unhealthful practices, means, methods, operations, or processes that have been adopted or are in use, in the place of business.

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ANNEX A

CALIFORNIA LABOR CODE, SECTION 6409.2

**FIRE OR POLICE AGENCY AT ACCIDENT INVOLVING EMPLOYEE;
NOTICE BY TELEPHONE TO DIVISION OF THE CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH**

Whenever a state, county, or local fire or police agency is called to an accident involving an employee covered by this part in which a serious injury or illness, or death occurs, the nearest district office of the Division of Occupational Safety and Health, shall be notified by telephone immediately by the responding agency.

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ANNEX B

CALIFORNIA LABOR CODE, SECTION 6302

DIRECTOR; DEPARTMENT; INSURER; DIVISION; STANDARDS BOARD; APPEALS BOARD; AQUACULTURE; SERIOUS INJURY OR ILLNESS; SERIOUS EXPOSURE

As used in this division:

(h) "Serious injury or illness" means any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by the commission of a Penal Code violation, except the violation of Section 385 of the Penal Code, or an accident on a public street or highway.

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ANNEX C

CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 342

REPORTING WORK-CONNECTED FATALITIES AND SERIOUS INJURIES

a) Every employer shall report immediately by telephone or telegraph to the nearest district office of the Division of Occupational Safety and Health, any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.

Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in Section 330(h), Title 8, California Administrative Code.

b) Whenever a state, county, or local fire or police agency is called to an accident involving an employee covered by this part in which a serious injury or illness, or death occurs, the nearest office of the Division of Occupational Safety and Health shall be notified by telephone immediately by the responding agency.

c) When making such report, whether by telephone or telegraph, the reporting party shall include the following information, if available:

1. Time and date of accident.
2. Employer's name, address, and telephone number.
3. Name and job title, or badge number of person reporting the accident.
4. Address of site of accident or event.
5. Name of person to contact at site of accident.
6. Name and address of injured employee(s).
7. Nature of injury.
8. Location where injured employee(s) was (were) moved to.
9. List and identity of other law enforcement agencies present at the site of accident.
10. Description of accident and whether the accident scene or instrumentality has been altered.

d) The reporting in (a) and (b) above, is in addition to any other reports required by law and may be made by any person authorized by the employers, state, county, or local agencies to make such reports.

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