Association of Bay Area Governments
Pooled Liability Assurance Network
(ABAG PLAN)

Risk Management Manual

ABAG
Association of Bay Area Governments

PLAN
CORPORATION
Pooled Liability Assurance Network

Introduction

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Introduction to the Handbook and ABAG Risk Management Program

The ABAG PLAN Risk Management Manual …

- provides **resources and tools** to aid members in the implementation of the an effective risk management program to minimize the cost of risk and maximize protection of their assets and the assets of the PLAN
- defines effective risk management processes and accepted **"best practices"** by which members will be evaluated for potential rewards and benefits defined by the PLAN. It also **allows self-monitoring** of program implementation status.
- provides an overview and **method for trending and evaluation** of member risks, exposures, and losses

Is It Worth It?

ABAG PLAN members may qualify for "use it or lose it" credits to assist in implementing the Risk Management Framework and at least half of the best practices as described in the Risk Management Recommended Performance Standards adopted by the ABAG Board of Directors in May, 2005. Assistance credits range from $3600 to $9600 and the maximum grant is $10,000**.**

How this Manual is Organized

This manual provides quick and ready reference and a place to organize information needed to implement a "best practice" risk management program consistent with the recommendations of the ABAG PLAN By-Laws and Revised Risk Coverage Agreement (2005).

There are two main manual sections—**Risk Management Framework and Operational Best Practices.** These correspond to the Self Assessment & Accountability worksheet. The two sections contain the performance measures, self assessment worksheet, and where to locate sample policies, programs and resources to implement the "best practices" on which the measures are based.

Each member handbook provides a place for the baseline general liability claim data determined as part of the original risk management assessment. This will provide the basis for comparison as additional data is provided in subsequent years and for measuring the progress and impact of member efforts. It also provides a mechanism for reporting key data to management. These same baselines, along with trend analysis information and logs maintained by each member, will be helpful in setting annual goals and action plans for addressing each member's unique risk exposures.

If you have questions or suggestions for making this a more useful tool, please contact any of the resources listed at **http://www.abag.ca.gov/plan/members/members.html**.

Risk Management Who's Who

City/Town Risk Manager/Coordinator

- ABAG PLAN contact
- Chair Risk Management Committee
- Keep Council and City Management informed of risk exposures and costs
- Trend claims and near misses to identify and address exposures
- Lead self assessment process

ABAG PLAN Claims

- Claim investigation
- Advice on liability and exposure
- Liaison with claimants, attorneys, and vendors
- Litigation Management
- Subrogation

ABAG PLAN Risk Management

- Risk Assessment and Financing
- Communication and Training
- Policy and Procedure development
- Consultant to Members
- Provide group program performance updates
- Risk Control Resource and information
- Excess insurance

City/Town Resources

- City Attorney
- Contract Administrator
- Clerk
- Inspectors
- Department experts
- Playground Safety Inspectors
- Risk Management Committee
- Risk Review and Evaluation Committee
- Volunteers

Contacts:
Marcus Beverly, ABAG PLAN Director of Risk Management **(510) 464-7969**
Angela Salsbury, ABAG PLAN Claims Manager **(510) 464-7954**
Chantelle Coleman-Doan, ABAG PLAN Claims Examiner **(510) 464-7972**
Cathie Bigger-Smith, ABAG PLAN Risk Control Consultant, **(800) 541-4591, extension 1152**

Grant Programs 06-07

The following is a summary of the grant programs and services available to PLAN members in FY 06-07. Please contact Marcus Beverly at (510) 464-7969 or marcusb@abag.ca.gov to apply for a grant (we typically ask only for an invoice), make recommendations for training or grant programs, or if you have any questions.

Risk Management Framework & Best Practices

Grants up to $10,000 for any purpose related to risk management, for completing our risk management framework items ($5,000) and at least 50% of the best practices related to your risk exposures ($5,000).

Risk Management Services Credit

To make it easier for you to complete the above items, we have established credits ranging from $3,600 (members with populations < 20,000) to $9,600 (34,000 > 54,000) and above. They were established to provide resources to address the recommendations in each member's risk assessment and to assist members in meeting the framework and best practices standards.

Staff and/or consultants will assist in developing an action plan and establishing a self-assessment process for continued improvement. Remaining funds are available for training, technical services, or other needs identified in the assessment.

New for 06-07: Risk Management Program Grants

Once a Member has completed the framework and best practices they are eligible for an additional $10,000, on a matching grant basis, to fund any risk management program. For example, repair sidewalk offsets, inspect or maintain trees, purchase safety equipment, provide training, or any other risk related program. We welcome your ideas for a pilot program that may be helpful for other members.

Defensive Driver Training

We pay for defensive driver classroom and behind-the-wheel training for our members. We use the State of CA and Safety Center for our training, and are willing to try other vendors, including on-line training, as recommended by members.

Risk Management Training

We pay up to $2,000 each year for members to attend training or conferences, or to provide training in-house via personal or on-line delivery. Conferences and training include PARMA (www.parma.com), CAJPA (www.cajpa.org), PRIMA (www.primacentral.org), or other risk management related organizations, such as (www.ieatraining.com).

Police Risk Management

General Orders: we provide grants to assist member departments in meeting our best practices recommendations, including subscribing to a service for regular updates (at least annually) of a department's general orders. Once a member meets this requirement the following grants are available:

Equipment grants: up to $10,000 per year as a matching grant for in-car video cameras, tasers, digital recorders, or other risk management related equipment.

Training grants: we pay for reserve officer perishable skills training not covered by POST as well as training programs as suggested by members to address their risk management concerns.

Sewer Risk Management

We continue our Sewer Smart Program (www.sewersmart.org) with public education materials, back flow devices, and assistance for our members in a variety of operational areas, including system maintenance, overflow response, and ordinance revision.

We offer grants for Members to provide Backflow Prevention Devices or to fund incentive programs for property owners to maintain and improve their systems.

ABAG PLAN Risk Control Program
Self Evaluation and Accountability Model
2005 - 2006

City:	**Date:**
Contact:	
Names of Those Completing the Self Assessment:	

	Risk Management Framework	● **In Place/ Effective**	● **In Progress/ Needs Work**	● **Absent/ Ineffective**	**N/A**	**Comments/ Plan for Action**
	Risk Management Policy To reduce or eliminate costs associated with risks of loss, each City must create a risk management structure with adequate resources to address the risk exposures of the City with visible support of City Management.					
1-1-1	City Council has adopted a resolution supporting a formal Risk Management Program and Policy and provides appropriate resources.					
1-1-2	City Manager endorses the Risk Management Program and Policy and communicates to all employees.					
	Injury & Illness Prevention Program (IIPP) The City must maintain an up-to-date Injury & Illness Prevention Program (IIPP) as required by OSHA, and actively maintains its requirements.					
1-2-1	IIPP is available for review and shows proof of periodic review/revision.					
1-2-2	IIPP identifies person of authority who is responsible for IIPP administration.					
1-2-3	Accountability standards and methods of enforcement are included.					
1-2-4	System for communicating hazards to employees and receiving employee feedback on safety concerns is in place.					
1-2-5	Procedure for identifying workplace hazards is in place, including regular inspections and observations of work practices.					
1-2-6	A formal accident investigation procedure is in place with mandatory review by senior management to ensure corrective action is based on management action to prevent a reoccurrence rather than placing blame on employee.					
1-2-7	System of follow-up of identified unsafe conditions or physical hazards in place (records of mitigation maintained for one year).					
1-2-8	Required and/or appropriate training is documented and maintained for one year.					
	Risk Management Organization A Risk Management Committee (RMC) or Team with clearly defined accountabilities must be named. This may be a scope enhancement of current safety committees.					
1-3-1	A Risk Management Coordinator must be appointed who is responsible for the implementation of risk management programs.					
1-3-2	The Chair of the RMC must attend and report on risk management plans and activities at monthly senior management meetings.					
1-3-3	The Committee must hold regular meetings. Minimum acceptable frequency is quarterly.					
1-3-4	Written minutes must be kept of each meeting along with an attendance list.					

Risk Management Framework		In Place/ Effective	In Progress/ Needs Work	Absent/ Ineffective	N/A	Comments/ Plan for Action
1-3-5	The Committee (or subcommittee) will review all accidents and near misses to: 1. Evaluate adequacy of root cause analysis, 2. Ensure action plan and follow-up protocols are developed and accountability, 3. Determine if broader exposure to loss exists.					
1-3-6	The RMC will serve as a mechanism for review and approval of equipment purchases or new practices/programs to evaluate risk exposure that may be created for the City.					
Goals & Objectives						
1-4-1	Trending of accident claims/reports by type is maintained and used to define action plans to address actual and potential claim types.					
1-4-2	Each risk management goal has a corresponding action plan, the components of which may be measured.					
1-4-3	Participation in PLAN Risk Management programs demonstrated by: 1. Active participation in loss prevention/risk control surveys and discussions by PLAN staff on strategies to prevent loss, 2. Written response within 45 days upon request providing status of "best practice" recommendations, 3. Development of action plan/strategy to address the five most significant risk exposures as defined by audits and data analysis.					
1-4-4	Performance measures for all employee levels are established to ensure risk management goals and objectives are addressed.					
1-4-5	Annual goals and objectives are distributed to all employees.					
1-4-6	Costs are allocated to each department for general liability.					
1-4-7	Costs are allocated to each department for workers' compensation.					
Claim Reporting and Follow-Up Successful claim resolution is ensured by good communications among claimant, City, and adjuster with immediate reporting of claims.						
1-5-1	City has assigned a claims liaison who is assigned to work with ABAG adjusters to address and investigate claims.					
1-5-2	Designees from each City are identified and trained to provide claimants with information and address their needs without inappropriately increasing the liability of the City.					
1-5-3	All claims filed against the City that may be covered by the PLAN are reported promptly (within 48 hours).					
1-5-4	City staff is trained to recognize and reports incidents that may result in claims against the City.					
1-5-5	All claims covered by PLAN but paid by the City should be reported to ABAG to maintain the accuracy of loss data and provide trending information. Only claims for property damage no greater than 10% of the City's deductible may be paid directly without first reporting to ABAG.					

Operational Best Practices		In Place/ Effective	In Progress/ Needs Work	Absent/ Ineffective	N/A	Comments/ Plan for Action
Vehicle Use and Operations Each City must adopt a comprehensive fleet management program to include driver training (defensive driver training), driver screening and selection, vehicle use, non-owned vehicle use, and vehicle maintenance.						
Driver Selection and Training Measures						
2-1-2	There is a written program in place that is actively utilized as the basis for driver selection and screening of employees and prospective employees for driving related duties.					
2-1-3	There is evidence that employees with negative Motor Vehicle Records (MVR) activity as defined by the ABAG PLAN standards are provided personnel counseling, training, rehabilitation, and/or remove from driving responsibilities depending on the nature and seriousness of the activity on their MVR or observed driving behavior.					
2-1-4	All employees who drive any vehicle on City business are enrolled in the DMV Employer Pull Notice (EPN) program and MVRs are reviewed to prevent negligent retention. Note: Release required for drivers whose license does not require participation in the EPN program.					
Vehicle Maintenance Measures						
2-1-6	Vehicles and records are maintained to meet standards and warranties relevant to the vehicles or equipment and to help defend negligence claims.					
Vehicle Operations Measures						
2-1-8	The City has adopted a vehicle use policy detailing when and how City and personal vehicles may be used for City business.					
2-1-9	The City has adopted a cell phone or distracted driver policy and all vehicle accident investigations reflect any “distracted driver” implication as part of the root cause analysis.					
Sidewalk Inspection and Maintenance The City has adopted a sidewalk/walkway inspection, maintenance, and complaint response plan.						
2-2-1	There is an effective, written, City-specific procedure in place to minimize sidewalk defects such as raised offsets, tilts or steep cross slopes, sunken sections, spalling, improper repairs to surround structures such as drains, and offsets between public and private sidewalks.					
2-2-2	The City has an ordinance in place transferring the liability for injuries on sidewalks to the property owner.					
2-2-3	The City has a written process in place to notice property owners to repair sidewalks where allowed by Municipal Code.					
2-2-4	The City has a follow-up procedure to ensure defects have been addressed by marking, barricading, etc. within reasonable periods.					
2-2-5	The City has a follow-up procedure to ensure defects have been mitigated by the property owner or other responsible party within a reasonable period.					
2-2-6	Photographs are taken and maintained in Public Works to visually record action taken to guard against contact by the public with a hazardous sidewalk site. This will aid in defense against allegations of inaction by the City.					

Operational Best Practices		In Place/ Effective	In Progress/ Needs Work	Absent/ Ineffective	N/A	Comments/ Plan for Action
Urban Forest Management (Trees and Vegetation) The City has a written urban forest management plan, which includes selection and placement of trees and provides for identification and mitigation of hazards related to trees, shrubs, and vegetation.						
2-3-1	There is a written process to select, situate, and maintain trees to minimize hazards, hardscape damage, and maintenance costs. Inspection and monitoring frequency is prioritized by degree of exposure of the public to vegetation hazards. (i.e. obscured intersections, parks, playgrounds					
2-3-2	Urban forest management is under the control and supervision of persons who have the necessary professional credentials and expertise to qualify as urban foresters or arborists.					
2-3-3	A written plan is in place and documented to provide for methodical, periodic inspection, care, maintenance, and complaint/emergency response for trees and other vegetation.					
2-3-4	The City has adopted an ordinance defining ownership and maintenance responsibilities for trees.					
Sewer Loss Prevention and Management The City has a written program for risk assessment and review, regular inspection, preventive maintenance, and emergency response for its sanitary sewer system.						
2-4-1	An ordinance is in place that meets or exceeds current plumbing code requirements for backflow devices. Council meeting minutes reflect recommendations and cost justification by staff for adoption of an ordinance requiring backflow devices when events not addressed by the code occur, such as when a property owner suffers a loss, remodels, or sells the property. Cleanout backflow relief devices are allowed.					
2-4-2	Key personnel have been trained to interact with property owners when responding to reports of sewer backup Training topic outline and document templates are available for review if training not provided by ABAG (David Patzer).					
2-4-3	Sewer inspection and maintenance protocols reflect identification and attention to “high frequency or impact areas” of the system.					
Police Risk Management Police risk management is an integral part of the City’s overall risk management exposure and should be subject to the risk assessment and evaluation review process as conducted by representatives from all City departments.						
2-5-1	City-written General Orders or guidelines reflect dates indicating reviews and updates. Key policies should be reviewed annually.					
2-5-2	Each City subscribes to a legal liability service for updated policy and procedure notification and advice.					
2-5-3	City departments have adopted a “reasonable force” approach to policing. Training records reflect this philosophy.					
2-5-4	Code 3 driving standards are in place and documented, which reflect current legal liability and professional standards that minimize risk to others sharing roads with emergency vehicles.					
2-5-5	City departments comply with all POST-mandated training requirements including perishable skills and training to General Orders is documented.					
2-5-6	Digital audio-visual technology in patrol vehicles, and digital audio recorders on person, are used to provide defense against alleged police misconduct claims.					

Operational Best Practices		In Place/ Effective	In Progress/ Needs Work	Absent/ Ineffective	N/A	Comments/ Plan for Action
Fire Risk Management Fire risk management is an integral part of the City's overall risk management exposure and should be subject to the risk assessment and evaluation review process as conducted by representatives from all City departments.						
2-6-1	Dispatch has either been transferred to another agency or detailed training, data and communication management, and technology are used to prevent dispatch error.					
2-6-2	The department has a written policy clearly defining if and how emergency response (Code 3) driving is permitted and executed.					
2-6-3	The department has equipment, procedures, and training in place to address equipment/gear that may not be enclosed or secure and may fall from the apparatus.					
Contractor Selection and Control Additional selection and evaluation criteria are used along with "low bidder" to ensure safe, cost effective, completion of City projects.						
2-7-1	The City has contractor selection criteria that include reference and site checks, interviews, insurance loss history, Cal/OSHA citation history, and license verification for general and all subcontractors.					
2-7-2	The contractor has a safety program (IIPP) in place.					
2-7-3	The contractor has site protection, traffic control, inspection, and debris removal plan in place.					
2-7-4	The City has documented planning, oversight, and quality control meetings with contractor.					
Road Maintenance The City has a systematic process in place for inspection, maintenance, repair, and emergency response for roadways.						
2-8-1	The City Council and/or City Engineer signs off on all road site protection plans to preserve governmental immunity.					
2-8-2	The City has on staff or access to a Caltrans-trained work zone safety specialist to oversee and approve all work zones.					
2-8-3	To enhance the City's ability to defend claims, protection of work-sites should be documented in photographs to illustrate protection provided to ensure drivers/pedestrians/cyclists do not come in contact with hazardous conditions.					
2-8-4	Contract language is signed by contractors accepting responsibility for the clean up and debris removal from work-sites to reduce potential for damage to vehicles or cyclist.					
2-8-5	The City has adopted a minimum Pavement Maintenance Index to serve as the standard to which road surfacing is to be maintained. Example: PMI=70					
Contractual Risk Transfer All contracts in which the City is involved are part of the risk management review process.						
2-9-1	A contract review process is in place to provide for consistent contract administration and oversight.					
2-9-2	All contracts are reviewed and approved by legal council to ensure that the City is adequately protected and risk is transferred or shared as intended.					
2-9-3	Contracts are reviewed for safety plans, staffing, oversight, and accountability.					

Operational Best Practices		● In Place/ Effective	● In Progress/ Needs Work	● Absent/ Ineffective	N/A	Comments/ Plan for Action
ADA Compliance and Transition Plans The Congressional passage of the Americans with Disabilities Act (ADA), which became effective in 1992, dictates equal access to public buildings and facilities, along with hiring and other EEOC-enforced provisions.						
2-10-1	The City has an ADA transition plan in place.					
2-10-2	Documentation verifies action taken on transition plan items.					
2-10-3	Five-year budget and development plans reflect budgeting for ADA compliance projects.					
2-10-4	Alternative procedures are in place to provide access for disabled persons to buildings and facilities until full structural access is achieved.					
Playground Safety City playgrounds must be designed, inspected, and maintained in compliance with the State of California requirements, which are described in *The Handbook for Public Playground Safety* and ASTM F187-95.						
2-11-1	A current playground equipment inventory exists for each playground.					
2-11-2	An annual playground audit is available for review and reflects equipment as stated in the inventory. The audit is conducted either by a Certified Playground Safety Inspector (CPSI) or personnel trained by a CPSI.					
2-11-3	Documented monthly inspections and repair records are available for review. Inspections are conducted and signed off by a CPSI or staff who was trained and overseen by a CPSI.					
2-11-4	Depending on frequency and intensity of use, weekly and/or daily inspection checklists are available for audit.					
2-11-5	For playgrounds that do not comply with accessibility requirements under the ADA, an action plan with time tables to bring the site into compliance is available for review.					
Facilities Maintenance and Hazard Identification City owned and/or operated facilities, including those for which joint use agreements are in place, present risk exposures to users and neighboring facilities. A process for scheduled, documented inspection of City buildings and other facilities should be in place.						
2-12-1	Checklists or other tools used to document inspections are available for review.					
2-12-2	Action items are prioritized and are assigned for correction with a due date for completion. Completion date is recorded.					
2-12-3	All new or newly acquired facilities have a documented risk assessment review for structural and operational risk.					
2-12-4	Buildings that have not been determined to be adequately protected against natural disaster or fire are not used for public gatherings and classes or leased to others.					

Risk Management Framework

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Developing a Risk Management Policy Statement

A "policy" statement for small community risk management should attempt to establish a top-level commitment to risk management, and it should provide very general direction in translating the risk management mission into practice. A policy statement includes:

- A Mission Statement (see the Newtown Risk Management Mission Statement)
- A Goals Statement

The former sets the tone, the latter gives direction.

For elected officials in small communities, developing a policy statement requires some effort but it need not be burdensome. A working policy statement can be developed from the following guidance:

Mission Statement Guidance
A Mission Statement should include reference to the following items:

- A statement of commitment which says top officials believe the practice of risk management is important to overall management effectiveness
- A defining statement, explaining how the community views risk management (this could simply be a definition of risk management)
- A statement of general accountability that identifies the overall purpose of risk management (for example, the statement might cite budget stabilization or public safety as the overall purpose)

Goals Guidance
A Goals Statement should include the following:

- A statement identifying responsibilities for risk management (for example, a new risk management committee, or the existing finance committee)
- A specific charge as to the nature of the responsibilities given to the person or committee, which would include:
  - A charge to identify and assess risks
  - A charge to select and implement risk control and financing measures
  - A charge to audit and report on risk management efforts (presumably back to elected or top officials)
  - A statement regarding the authority that is invested in this person or committee

Risk Management Policy Ingredients

- Purpose of Risk Management Policy and Procedures

- Responsibilities
    - Managers, department directors, supervisors, employees (job descriptions)

- Organization of Safety/Risk Management Committee(s)
    - Duties/safety training programs/enforcement provisions
    - Composition of Committee(s), funding, suggestions by Committee
    - Disaster preparedness, mutual aid agreements, OSHA
    - Recordkeeping, manuals, communication, incentive award programs

- Accident Investigation
    - Industrial injuries
    - Vehicle collisions
    - Citizen injuries
    - Property or equipment damage, theft, or vandalism

- Hazard Identification Program

- Liability/Workers Compensation/Property/Crime/Employee Benefits
    - Why insurance v. self-insurance, layers of coverage, etc.
    - Claims processing, logs and claims administration forms
    - Denial procedure (City Council review)
    - Litigation and settlement authority
    - Broker selection and insurance placement
    - Defense attorney selection and evaluation

- Contractual Liability
    - Monitoring certificates of insurance and endorsements
    - Determining indemnity requirements of contractors, facility users, and providers
    -
- Employment Issues
    - Pre-placement screening
    - CPR, lifeguard and first aid certification
    - Background checks (motor vehicle and criminal)
    - Employee indemnification (define “course,” “scope,” and “protective equipment”)
    - Employee athletic and social events and activities
    - Employee benefit coordination and plan document responsibilities

- Risk Funding
    - Funding sources and expense allocation
    - Trust fund management, budgeting, and control

Establishing a Safety Culture

Your City or Town employees participated in a Safety Perception Survey between 2003 and 2005. The safety perception survey was used to assess your City or Town's employee perceptions, management commitment, organizational characteristics, accountability, and attitudes that are the foundation of a successful safety culture. The results of the survey identified cultural, organizational, and physical problems that may be hindering the integration of safety into the culture.

The feedback provided by your survey can be compared to the questions below to evaluate the health and effectiveness of your safety culture. A healthy safety culture will allow your City or Town to enjoy the additional resources provided when every employee is an active participant in safety and risk management.

Characteristics of a Safety Culture

	Yes	No
Safety and safety terms are part of the language of your City or Town. Workplace safety practices are part of everyone's job description.		
Safe and unsafe behaviors are specified and enforced.		
Employees are rewarded in a tangible, visible way for promoting safety.		
Safety concerns are evident in the interaction among staff and in their interaction with members of the public.		
New employees are briefed on safety procedures and on the consequences for ignoring safety practices or engaging in unsafe behavior.		
The consequences for ignoring safety practices are enforced.		
Employees observe and correct hazards.		
Employees always "dress for success" by using the appropriate protective gear and equipment.		
There is an active safety committee and meetings are well attended.		

Sample Risk Management Policy and Mission and Goal Statements

The Newtown Risk Management Mission Statement

The Newtown local government has a moral and legal duty to its citizens, employees, and assets. It will meet its duty by ensuring that risk management plays an integral part in sound governance at both a strategic and operational level.

The town council will support the risk management effort through setting policy and providing broad guidance on goals and objectives. However, risk management is an active process that requires cooperation by all managers, employees, and—where appropriate—the larger community. To that end, the town council accepts that it must take a leadership role in seeing that appropriate measures are undertaken.

The Newtown Risk Management Goals Statement

The town council authorizes the establishment of a Risk Management Committee, which shall consist of two council members, the town finance officer, the fire chief, the public works manager, and two outside representatives of the community (to be selected by the council for three-year terms). The Committee shall be chaired by the finance officer, and its responsibilities shall be:

- Identifying and assessing risks
- Selecting and implementing risk control and financing measures
- Periodically reviewing risk management efforts and reporting to the town council

These activities shall be undertaken in the service of the risk management mission statement, and to that end risk management practices are undertaken to reduce the cost of risk to Newtown and to maximize benefits of opportunities that the community may encounter.

Sample Risk Management Policy Statement

It shall be the policy of the City of San Bruno to minimize the conditions that lead to accidental losses of all types. The City will work to prevent employee injuries and property damage, and to protect public safety.

Where the City cannot eliminate its exposure to risk, the City shall manage the risk through a combination of funded self-insurance, and/or transfer to a financially sound insurer.

The Risk Management Program organization structure is designed to utilize the knowledge, skills, and experience of City Employees to identify, evaluate and coordinate various risk exposures.

SAMPLE

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ATHERTON ADOPTING A RISK MANAGEMENT PROGRAM

WHEREAS, the Town of Atherton is a member of the Association of Bay Area Governments Pooled Liability Assurance Network (ABAG PLAN), and

WHEREAS, it is recommended that a risk management policy be established in a public agency to accomplish certain goals, and

WHEREAS, it is the intent of the Town of Atherton to provide a safe environment for its residents, visitors, and employees in which to live and work,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the Town of Atherton does hereby adopt a risk management program to preserve its human, physical, and financial resources from the risk of accidental loss. The major goals of this risk management policy are:

- To eliminate or reduce the risk of loss;
- To apply responsive claims management techniques to losses that do occur; and
- To protect the Town budget from catastrophic losses, or an annual accumulation of losses, that would cause financial hardship. Catastrophic loss is defined as any loss in excess of $1,000,000.
- Overall responsibility for the risk management program shall lie with the City Manager. Risk management shall be the responsibility of each department manager.

<u>Risk Management Program Policies</u>

- The risk management program is a systematic process to identify, measure, and control loss exposures. A citywide hazard identification system will be implemented by the Risk Manager to quickly identify hazardous conditions and effect repairs. All employees shall be encouraged to notify their supervisor, department head, or the Town Risk Manager of any condition that may expose someone to injury or damage.
- The risk management program is a responsive claims administration system. The Risk Manager will review all incident reports and claims, and will notify ABAG PLAN and their adjustment firm in a timely manner of all serious accidents or claims. Department heads and supervisor will review all accident reports, incident reports, and claims affecting their organization, and provide timely information to the risk manager and ABAG PLAN's appointed adjustment firm.

- The risk management program is the transfer of the town's risk of loss to others whenever possible and practical. The Risk Manager will develop a risk transfer process that assures the use of hold harmless and indemnity clauses in all town agreements, contracts, leases, permits, purchase orders and rental agreements, and the use of insurance clauses that provide adequate protection to the Town, within the judgment of the City Manager.

Accident Review Process

An accident review process shall be implemented by the Risk Manager to review all accidents, incidents and claims to determine their cause, preventability, methods to prevent future occurrences, and claims and litigation defense strategy. The review process should be conducted periodically, as needed.

Safety Review Process

A safety review process shall be implemented by the Risk Manager to discuss safety issues and get feedback from Town employees on how to make Town operations safer. The safety review process shall take into account standard industrial safety practices and safety orders issued by the state agencies. The review process should be conducted periodically, but no less than quarterly.

Insurance

The Town will establish self-insurance retention limits consistent with its financial resources. The Town will establish reserves on all self-insured losses to recognize the expected future cost, and appropriate funds to cover all self-insured liabilities.

Insurance for risks and catastrophic loss potential shall be purchased whenever it is economically feasible, within the judgment of the City Manager.

The Risk Manager shall be the Town's liaison with the ABAG PLAN and its claim administration program.

PASSED AND ADOPTED at an adjourned meeting of the Town Council of the Town of Atherton on January 17th, 1990 by the following vote:

AYES: COUNCILMEMBERS: Dudley, Dinkelspiel, Chapman, Conwell, Cobey

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

_____

Malcolm H. Dudley, Mayor
TOWN OF ATHERTON

ATTEST:

_____

CITY CLERK

Guide to Developing Your Workplace Injury and Illness Prevention Program with Checklists for Self-Inspection

CS-1 revised March 2002 - Cal/OSHA Consultation Service
State of California - Department of Industrial Relations
Division of Occupational Safety & Health

About This Guide

In California every employer has a legal obligation to provide and maintain a safe and healthful workplace for employees, according to the California Occupational Safety and Health Act of 1973. As of 1991, a written, effective Injury and Illness Prevention (IIP), Program is required for every California employer.

This manual describes the employers' responsibilities in establishing, implementing, maintaining, an IIP Program. It also outlines steps that can be taken to develop an effective Program that helps assure the safety and health of employees while on the job.

The term "employer" as used in the Cal/OSHA Act includes any person or corporation, the State and every State agency, every county or city or district and public agency therein, which has any person engaged in or permitted to work for hire, except for household services.

This manual is designed to help employers provide better workplace protection for their employees, and to reduce losses resulting from accidents and injuries. The material in this publication is based on principles and techniques developed by occupational safety and health professionals nationwide. It is intended to provide guidance, rather than prescribe requirements, and is not intended as a legal interpretation of any state standard.

This and further information can be found at:
http://www.dir.ca.gov/dosh/dosh_publications/iipp.html

Employee Incident Reporting Procedures

Timely documentation of an incident or accident can reduce the financial consequences of claims and lawsuits against the City.

Public Hazards

When a City employee knows of or suspects a potential liability exposure to the City, the employee shall report the incident utilizing the following procedures:

1. Notify the appropriate department of a hazard by telephone, radio, or written report.

2. If the situation can be corrected quickly, the employee or department shall take the appropriate action. If the problem cannot be corrected within 24 hours, the department will forward a completed hazard report form to the City Attorney.

3. If an employee becomes aware of a hazardous situation where immediate repair is called for, the employee shall document the existing conditions with photographs, diagrams, and written descriptions prior to repair.

4. The City Attorney shall contact the appropriate department head to notify the department head that the report has been received and to determine what corrective action should be taken.

5. The City Attorney shall monitor reports of possible hazards to their conclusions.

6. If a hazard is reported directly to the City Attorney or City Clerk, the City Attorney or City Clerk shall immediately notify the appropriate department head.

Sample Accident or Incident Reporting Procedures

Purpose

This procedure describes the steps to be taken when a City employee or City property may be involved when persons other than City employees are injured or non-City property is damaged. The City must obtain the best information possible as soon as possible in the event of an employee vehicle accident, injury on City property, property damage incident, or any other action which may result in a claim against the City.The incident may involve City employees or property, injury to a private citizen, or damage to private property which may become damaged as a result of normal City operations and/or equipment. Some examples of incidents subject to this procedure:

1. City vehicle accidents
2. Sewer backups resulting in property damage
3. Personal injuries on City property
4. Falling trees involving property damage

Policy

Involved and responding employees will:

1. Contact their immediate supervisors according to individual department policies. Do not assume that someone else will follow through with reporting needs. Do not admit liability for anything that happened or assume that the City or anyone else is responsible for the accident or damage. What happened will be sorted out through the accident reporting and investigation process.
2. The supervisor or employee should cause the following to be completed:
    a. Obtain the names, addresses, and phone numbers (work and home) of any witnesses. Interview the witnesses and prepare a report including statements from the witnesses. The report should include any suggestions to prevent a similar accident or incident from occurring in the future.

    b. Take photographs of the property damage or defect to City property. A sufficient number of photos should be taken to fully describe the damage to a person who has not been at the scene.

    c. Prepare a report of the incident with all necessary information. The reports should be prepared to reflect the seriousness of the incident.

    d. Cause the appropriate City forms to be completed.

    e. If individual department procedures include all of the information required by this policy, that document can be utilized to fulfill these requirements.

f. This policy is in addition to an workers' compensation reporting requirements.

Specific Types of Incidents or Accidents

1. Motor Vehicle Accidents.
    a. If the accident involves a City vehicle, the Vehicle Accident Report Kit—which should be in the glove compartment of every City vehicle—is to be used.
    b. The insurance information should be offered to the other party or parties and the accident report form completed. This information should also be provided to any responding law enforcement officers.
    c. A police report shall be obtained whenever the accident involves more than $200 in property damage to a vehicle not registered to the City or any personal injury. If the owner of a vehicle that is damaged in an accident is not present and cannot be located, notification shall be left on the other vehicle with clear information as to the time and date of the accident and the name, address, and phone number of the City and the City vehicle involved. A police officer shall also be requested to come to the accident location to make a traffic report.

2. Items to be addressed in reports. Below are outlines of appropriate information to gather with regard to sidewalk, sewer, water, equipment, and highway accidents or incidents. Use these as a reference in documenting the background of an incident or accident.

    a. Sidewalk Falls
        1. Has the City received any complaints or claims from this area? What was the nature of those complaints?
        2. Was the area recently repaired or altered in some way? When and how?
        3. Is there any program pending to repair or alter the area? What is its status?
        4. Were there any sidewalk markings in the area? What were they for?
        5. Did the fall occur in the City right-of-way? Please mark on map.
        6. In your opinion, what is the cause of the apparent defect?
        7. What is required to correct the defect?
        8. Has an inspection been made of the area in the recent past?
        9. If the fall occurred at night, what is the lighting of the area?

    b. Sewer Claims
        1. Have there been any prior floodings, complaints, or unpluggings? What and when were they?
        2. When was the last service on the line affected? What was the service?
        3. Are there any videos of the line?
        4. Is there a clean-out? How did the clean-out relate to the flooding?

5. Is there a backflow prevention device? How did it relate to the flooding?
6. Are there any pending repairs to the flooded area? What are they?
7. If tree roots are involved, where is the suspected tree located? Is it in the public right-of-way?
8. Is the sewer problem related to or aggravated by any possible illegal construction or construction without a permit?
9. A diagram of the sewer system in the area with any relevant points noted may be helpful.

c. Water Claims
   1. Have there been any prior floodings, complaints, or breakages in the area? What and when were they?
   2. When was the last service on the line affected? What was the service?
   3. Are there any pending repairs to the affected area? What are they?
   4. If tree roots are involved, where is the suspected tree located? Is it in the public right-of-way?
   5. A diagram of the water line system in the area with any relevant points noted may be helpful.

d. Area or Equipment Defect Claims
   1. When was the last inspection made of the area or equipment? What were the results of that inspection?
   2. When was the equipment installed? Was it part of a design? If so, what was the design process?
   3. Does the equipment meet existing safety standards?
   4. Who is the City employee most knowledgeable about this equipment or area?

e. Highway Accidents
   1. Width of street, lanes, and sidewalks.
   2. Sight distances from the location of the accident and from the viewpoints of all persons involved as they approached the point of impact.
   3. Striping in the area—what type and condition at the time of the accident.
   4. Parking lane availability.
   5. Describe the location of all regulatory or warning signs or lights that would be applicable to the accident scene,
   6. Describe the location of all directional signs that would be applicable to the accident scene.
   7. What lighting exists in the area of the accident?
   8. What is the posted speed limit and where is it posted?
   9. What is the design speed of the highway?
   10. What is the history of accidents in the area?

11. Are there any known defects in the design, construction, or maintenance of the traffic system in the area? Have such defects been identified and corrected?
12. Have there been any previous complaints, claims, or suits about the area?
13. Are the signs clearly understood, visible, and in compliance with MUTCD?
14. Are any signals or signs obstructed in the area?
15. What is the signal pattern and timing?
16. Who was responsible for the design and construction?
17. Did the City have any control over the design and construction? If so, when was the design approved and by whom?
18. Who is responsible for the maintenance of the area?
19. What maintenance or construction ahs taken place in the area in the past five years?
20. What was the maintenance condition of the roadway at the time of the accident?
21. Who conducted the last maintenance of the highway and traffic control devices, when was it approved, and by whom?
22. When was the area built or developed?
23. Please provide map of the area. Describe or indicate any horizontal or vertical curves that are in the immediate vicinity of the accident.

Reporting

Significant incidents involving serious personal injury, death, or significant property damage should also be immediately reported to the appropriate department head and the City Attorney.

If any assistance is needed or desired in documenting the incident or obtaining other assistance, contact the City Attorney's office. If that office is unavailable, contact ABAG PLAN, the City's claims administrator:

Angela Salsbury (510) 527-2324
Marcus Beverly (510) 823-2855

All reports should be promptly forwarded to the City Attorney's office.

Claims

Attached is a City claim form. If a citizen wishes to know how he or she can file a claim with the City or to know how he or she can be reimbursed for the damages, please provide them with a claim form. Providing a claim form is not an admission of liability or responsibility, but instead a part of the process of determining what happened.

Citizens can also contact the City Attorney's office and a claim form will be mailed to them.

City of _____
and ABAG PLAN

Incident Report

To: City Attorney
_____
_____, CA _____

From: _____
_____
_____

Date and Time of Incident: _____

Department: _____

Location: _____

Injured Party:

Name: _____

Address: _____

Phone: (____) ____ - _____

Description of Incident:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Date: ___ / ___ / ___ Submitted by: _____ Phone (____) ____ - _____

Accident Investigation Best Practices

Fact Finding

1. Emphasis is placed on gathering facts, not placing blame or determining the cause of the accident.

2. Inspect the accident site before any changes to it occur.

3. Preserve essential and critical evidence.

4. Take photographs or make sketches of the accident scene.

5. Interview the injured party and witnesses as soon as possible after an accident. Record pre-accident conditions, the accident's sequence of events, and post-accident conditions.

6. Document the location of the injured party, witnesses, machinery, equipment, energy sources, and hazardous materials.

7. Ask *who*, *what*, *when*, *where*, *why*, and *how* during interviews.

8. Re-interview the injured party and witnesses to resolve any conflicting accounts.

9. Remain completely objective during interviews and in documentation.

10. Keep complete and accurate notes.

Interviews

1. Get preliminary statements from injured party and witnesses as soon as possible.

2. Explain the purpose of the investigation (accident prevention) and put the witness at ease.

3. Let the witness speak freely and take notes without distracting the witness.

4. Record the exact words used by the witness to describe each observation.

5. Be sure that the witness understands each question.

6. Identify the witness completely (name, occupation, years of experience, phone number).

7. Supply each witness with a copy of his or her statement (signed statements are desirable).

Investigation Reporting

1. Provide complete, thorough information about the accident.

2. Describe the accident. Document the sequence of events and identify the extent of the injury or property damage.

3. Identify hazardous conditions and/or unsafe work practices for each event of the accident.

4. Identify the root cause of each hazardous condition or unsafe work practice.

5. Provide short-term and long-term corrective actions that prevent or eliminate the identified hazardous conditions, unsafe work practices, and root causes.

6. Describe the corrective actions recommended, the persons accountable for each corrective action, and the approximate timeframe for completion of each corrective action.

Corrective Actions

1. Recommend immediate corrective actions to eliminate or reduce hazardous conditions and/or unsafe work practices.

2. Recommend long-term corrective actions that correct policies, programs, plans, processes, and/or procedures.

3. Recommend engineering controls, administrative controls, or personal protective equipment.

4. Estimate the cost to implement each immediate and long-term corrective action.

5. Develop an action plan for each corrective action.

6. Monitor implementation of the action plan to ensure appropriate corrective action is taken.

Accident Investigation Procedure

Standardized Forms for Accident/Exposure Investigations

- Supervisors shall provide Employee's Claim for Workers' Compensation Benefits (Form DWC-1) to the injured employee immediately following any accident or notice of injury or illness. Supervisors and employees are to complete and submit the report within one business day.
- The Supervisor's Injury/Incident Investigation Report is to be completed by the supervisor for all injury/illness/exposures within one business day.
- The Employer's Report of Occupational Injury or Illness (DLSR Form 5020) is to be completed (typed) within 24 hours by the supervisor or designated workers' compensation coordinator (for cases when one workday or more is lost by an employee or when treatment of the employee is required by a physician in a medical facility). Send the report to the third party administrator within five days.
- The department supervisor will complete and retain a copy of all Supervisors Injury/Incident Investigation reports with a copy to the IIPP Program Administrator showing the management analysis of the loss and the corrective action taken by management.

All completed report forms are to be submitted to:

INSERT APPROPRIATE INFORMATION

Phone the Program Administrator at INSERT TELEPHONE NUMBER with questions.

Investigation Steps

The investigation involves the following steps:

- Supervisor interviews injured workers and witnesses;
- Supervisor examines workplace for factors associated with the accident/exposure;
- Supervisor takes photographs as warranted;
- Supervisor determines the possible cause of the accident/exposure;
- Supervisor takes corrective action to prevent the accident/exposure from recurring;
- Supervisor records the findings and corrective actions taken.

The IIPP Program Administrator is available to assist in any aspect of the investigation.

Supervisor's Report of Employee Injury, Illness, or Near Miss

This form should be completed by supervisory/management staff to report all incidents, injuries, or illnesses sustained by agency staff. This form should also be completed to document any "near miss" situations. After completing this form, it should be attached to the "Employers Report of Occupational Injury or Illness" (Form 5020) and sent to the Workers' Compensation Claims Administrator.

Agency Name:_____

Employee Name:_____**Age:**_____

Department:_____**Job Title:**_____

Time in Current Position: _____**Date of Hire:**_____

Employee Status: **Full Time** ☐ **Part Time** ☐ **Seasonal** ☐ **Volunteer** ☐

Date of Incident:_____**Time of Incident:**_____

Supervisor's Name:_____ **Telephone Number:**_____

Was the employee injured? ☐**Yes** ☐**No** **Did the employee leave work?** ☐**Yes** ☐**No**

Was this a "first aid only" incident? ☐**Yes** ☐**No**

What type of Illness/Injury was sustained by the employee and what body part was involved? (cut to left index finger, low back strain, burn to right leg, etc.)

_____

Did you provide the employee with a DWC-1 Claim Form? ☐**Yes** ☐**No**

If YES, when? Date/Time:_____

Names of Witnesses:

Name	**Telephone Number**

1. Describe fully and as with as much detail as possible, where the incident occurred (facility, department, office, workstation, if outdoors). Was equipment or property damaged? Use additional sheets of paper if needed.

_____

_____

_____

_____

2. Describe fully and as with as much detail as possible, what events led up to the incident (condition of the work area, weather conditions). Use additional sheets of paper if needed.

_____

_____

_____

3. Was equipment being used at the time of the incident? ☐Yes ☐No
If YES, was equipment in proper working order? ☐Yes ☐No
If NO, what problems were occurring? Use additional sheets of paper if needed.

_____

_____

_____

4. Describe as fully and as with as much detail as possible what the employee was doing at the time the incident occurred. (What specifically caused the injury; i.e. cut, burn, struck by object.) Use additional sheets of paper if needed.

_____

_____

_____

5. Does this job require use of personal protective equipment (PPE)? Is there a relationship between the severity of the injury and using PPE?

_____

_____

_____

6. Have similar incidents occurred? ☐Yes ☐No If YES, list dates and locations.

_____

_____

7. What can management do to prevent recurrence of this type of incident?

_____

_____

_____

8. What immediate actions have been taken to prevent recurrence? By whom?

_____

_____

_____

_____

9. What long-term actions are needed? By Whom? Target date for completion?

_____

_____

_____

_____

10. What post-loss actions should be taken (Early Return-to-Work program, other actions to mitigate overall severity of loss?)

_____

_____

11. Additional Comments:

_____

_____

_____

_____

_____

Name of Supervisor/Manager Completing Report:_____Date:_____

Investigated By:	**Date:**	**Person(s) Accountable for Corrective Action:**	**Target Completion Date:**
Reviewed By:	**Comments:**		**Sr. Mgmt. Review Date:**

Accident/Incident Investigation Summary

Entity:		**Location of occurrence (be specific and include department, vehicle, or building):**	**Off-site?** Yes ☐ No ☐
Date and time of occurrence:		**Any witnesses? If yes – list them by name:**	
Date reported:			
Full name of injured person (use new report for others):		**Job title:**	
Age:	**Full or part time?** Full ☐ Part ☐	**Volunteer?** Yes ☐ No ☐	**Seasonal?** Yes ☐ No ☐
Department:		**Time in current position:**	**Time with the City:**
Nature of injury or illness:		**Body part(s) injured:**	
Medical treatment?		**List equipment or property damaged:**	

DESCRIPTION	**Describe clearly what took place. How did the accident occur? Include location and the materials, chemicals, equipment, and people involved. If a vehicle is involved, create a sketch on reverse or attached page of accident scene. What was the person/employee doing when injured? Identify causal factors and describe the sequence of events, including any political or production pressures, incentives, habit, patterns, distractions, impairments, lack of knowledge or skill, and/or product defects.**

Accident/Incident Investigation Summary

DESCRIPTION	**Describe clearly what took place. How did the accident occur? Include location and the materials, chemicals, equipment, and people involved. If a vehicle is involved, create a sketch on reverse or attached page of accident scene. What was the person/employee doing when injured? Identify causal factors and describe the sequence of events, including any political or production pressures, incentives, habit, patterns, distractions, impairments, lack of knowledge or skill, and/or product defects.**

Accident/Incident Investigation Summary

ANALYSIS	***Contributing Factors – Based on the interviews the contributing factors in this incident include:***
	From a management perspective, consider what can be done to control, eliminate, or transfer the exposure, prevent the hazard and/or accident, and reduce the amount or degree of loss. Question why, what, when, who, and how for each operation. Consider each factor contributing to the accident.
	The analysis should consider management systems failures: * Training * Policy & procedures for trenching and electrical safety * Safe work practices * Accountability * Supervision * Employee participation in safety culture Considering * Safety is management's responsibility * Fundamental cause of loss is inadequate management control * Unsafe acts and conditions are symptoms of management inadequacies * Critical few represent the majority of loss experience (loss types and management issues) * Safety is product of values, accountability and culture

Accident/Incident Investigation Summary

PREVENTION	Recommendations

Risk Management Assessment
Accident Summary Description
Exposures
Hazards

Add photos and/or diagrams as appropriate.

Investigated By:	**Date:**	**Person(s) accountable for corrective action:**	**Targeted Completion Date:**
Reviewed By:	**Comments:**		**Sr. Mgmt. Review Date:**

Accident/Incident Investigation Summary

Accident/Incident Investigation Report

Entity	Date/Time	Location of Occurrence (Be specific. Include department, vehicle, or building.)

Date Reported	Off Site? ☐ Yes ☐ No	Full Name of Injured Person (use new report for additional people)	Job Title	Age

Any Witnesses? If yes – list them by name	Department:	Title:	Full or Part Time?
	Time in Current Position:	Time with the entity:	Seasonal?	Volunteer?

Nature of Injury or Illness	Body Part(s) Injured:
Medical Treatment?	List Equipment or Property Damaged:

DESCRIPTION	Describe what took place. How did the accident occur? Include location and the materials, chemicals, equipment, and people involved. If a vehicle is involved, create a sketch on reverse or attached page of accident scene. What was the person/employee doing when injured? Identify causal factors and describe the sequence of events, including any political or production pressures, incentives, habit patterns, distractions, impairments, lack of knowledge or skill, and/or product defects. Attach photos.

ANALYSIS	From a management perspective, consider what can be done to control, eliminate, or transfer the exposure, prevent the hazard and/or accident, and reduce the amount or degree of loss. Question why, what, where, when, who, and how for each operation. Consider each factor contributing to the accident.

PREVENTION	Describe the management actions or controls that have or will be taken to reduce the potential for a recurrence.

Investigated By:	Date:	Person(s) Accountable for Corrective Action:	Targeted Completion Date:
Reviewed By:	Comments:		Sr. Mgmt. Review /Date:

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
POLICY AND PROCEDURES MANUAL

ACCIDENT INVESTIGATION	P&P C-170 & 170A Issue Date: 8/1/94 Revised: 2/1/95, 7/1/95, 5/1/01, 2/1/02, 6/17/02,7/1/04

AUTHORITY: California Labor Code Sections 6302, 6313, 6313.5, 6314, 6315 and 6317.

POLICY: It is the policy of the Division to conduct a thorough investigation of the cause of every industrial accident which results in any of the following: (1) a fatal injury to one or more employees; (2) a serious injury or illness; (3) a serious exposure; or (4) the inpatient hospitalization, regardless of duration, of three (3) or more employees. In the course of every accident investigation the Division will determine whether any violation(s) of Title 8 Safety Orders caused the accident, issue citations when appropriate, use the information gained from investigating the accident to prevent accidents of a similar nature in the future, and transmit copies of investigation reports, and final Orders of the Occupational Safety and Health Appeals Board, to the Registrar of Contractors, when an accident involves a contractor licensed by the Contractors State Licensing Board.

PROCEDURES:

A. GENERAL ISSUES

1. The Cal/OSHA 170A sets forth procedures for obtaining relevant evidence about the occurrence of an accident and the preparation of the Investigation Summary (OSHA 170) and the Narrative Summary (Cal/OSHA 170A).

2. An OSHA 170 and Cal/OSHA 170A shall be completed for:

a. All fatalities, serious injuries, serious exposures, or catastrophes (as defined in subsection B. below) which are investigated as accidents;

   EXCEPTION: If it is determined prior to conducting an investigation that the accident involved a fatality, serious injury, serious exposure or catastrophe which was not caused by a workplace condition, e.g., a heart attack, stroke or other medical disorder not related to working conditions, it is not necessary to conduct an inspection nor to complete an OSHA 170 or Cal/OSHA 170A. If it is determined after an investigation is initiated that the accident involved a fatality, serious injury, serious exposure or catastrophe that was not caused by a workplace condition, then compliance personnel shall complete the Cal/OSHA 1 by marking

Item 5.1 with "A," Item 24 with an "a," and Optional Information, Item 42, as S 16 (No 170s).

b. All events which generate significant print or electronic media attention, but which did not involve a fatality, serious injury or serious exposure, e.g., explosion at a site where no employee was working at the time of the explosion, a crane collapse where no employees were injured, or a toxic release where no employees were exposed.

3. Only one Investigation Summary (OSHA 170) shall be completed per accident regardless of how many different inspections resulted from the accident. Photocopies of the Investigation Summary shall be placed in each accident-related case file.

4. Accident investigations are more complex and require a greater degree of technical and investigative skill to conduct than other types of nonprogrammed or programmed inspections. As a result, the procedures found in this P&P represent minimum guidelines for the conduct of accident investigations and additional procedures may be needed to conduct a particular accident investigation.

5. Accident investigations often require coordination between the Division and other federal, state and local investigative agencies. In addition, compliance personnel must often interact during the course of an accident investigation with many different entities including employers, employer representatives, accident victims and their families, employees and employee representatives, the general public, and representatives of the electronic and print media.

B. TYPES OF ACCIDENT INVESTIGATIONS

1. Mandatory

The Division shall conduct an investigation into the cause of the following types of industrial accidents:

EXCEPTION: Investigation of an accident as specified in this section need not be conducted if the District Manager determines, according to guidelines found in P&P C-36, that an accident investigation is unnecessary. If a determination is made that an investigation is unnecessary, the reason(s) for the determination shall be summarized and recorded on the Cal/OSHA 36(S).

a. Fatality ("FAT")

An employee death resulting from an employment injury, illness, or exposure related to a workplace hazard or condition.

b. Serious Injury

Any injury or illness to one or more employees which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation, or in which an employee suffers the loss of any member of the body, or suffers any serious degree of physical disfigurement, but does not include any injury or illness or death caused by a 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. See Labor Code Section 6302(h).

c. Serious Exposure

Any exposure of one or more employees to a hazardous substance when the exposure occurs as a result of an incident, accident, emergency or exposure over time and is of a degree or amount sufficient to create a substantial probability that death or serious physical harm in the future could result from the exposure. See Labor Code Section 6302(i).

d. Catastrophe ("CAT")

The inpatient hospitalization, regardless of duration, of three (3) or more employees resulting from an employment injury, illness or exposure caused by a workplace hazard or condition.

NOTE ONE: It is not necessary that the injury, illness or exposure be of a serious nature if three (3) or more employees are hospitalized as a result of the injury, illness or exposure.

NOTE TWO: Even though the investigation of a catastrophe is not required by Labor Code Section 6313, the Division has determined that in order to be "as effective as" federal OSHA, the investigation of a catastrophe is mandatory.

2. Discretionary

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

C. INITIAL INVESTIGATIVE PROCEDURES

1. Initial Information

Upon notification of an accident, the District shall gather as much information as possible prior to scheduling an inspection. Information required by Cal/OSHA 36(S) shall be collected from the person or entity reporting the accident.

NOTE: If knowledge of the accident is received from the print or electronic news media, or from sources other than an employer or an employer's representative, the employer may be contacted to obtain additional information whenever the District Manager believes that such informational contact will result in a more effective inspection. Such contact shall be considered to be advance notice and procedures pertaining to advance notice in P&P C-1A shall be followed.

2. High Profile Accidents

Some workplace accidents attract significant, and often immediate, interest from the news media or from the public. If the District receives an inquiry from the print or electronic media about a particular accident, the District Manager shall notify the Deputy Chief for Cal/OSHA Enforcement, through the Regional Manager, of the source and nature of each media inquiry. The Deputy Chief will notify the DIR Deputy Director for Communications about the source and nature of the inquiry and will coordinate an appropriate response to the inquiry with the District Manager.

3. Investigator Selection, Fatality/Catastrophe Investigation Initiation and Notification of BOI and Local/Circuit Prosecutor

a. Investigator Selection

The District Manager shall select a safety engineer and/or an industrial hygienist to investigate an accident and shall base the selection on the investigator's experience with the particular industry or operation involved in the accident.

b. On-Site Presence of Cal/OSHA Civil Investigators

Any investigation of a fatality/catastrophe ("FAT/CAT") accident report shall be initiated immediately, or within eight (8) hours if an immediate response if not feasible, but in no case shall a FAT/CAT investigation be initiated more than twenty-four (24) hours, following receipt of the FAT/CAT accident report.

c. Immediate Initial Notification

At the time that a FAT/CAT accident investigation is begun, the District Office, Regional Office or Rapid Response Regional Team Coordinator shall notify by fax or by telephone, or by electronic mail ("email"), the Bureau of Investigations (BOI) and the local or circuit prosecutor of the occurrence of the FAT/CAT, and the initiation of the Cal/OSHA civil investigation. The District may use the Cal/OSHA 36(S) as a format to satisfy the immediate initial notification requirement. For catastrophes only, notify Federal OSHA Region IX of the occurrence of the catastrophe.

Note: Also notify Federal OSHA, Region IX, of the occurrence of a catastrophe, or the occurrence of a single fatality of high media interest, by fax or by telephone.

d. 72-Hour Notification Report

When requested by the local or circuit prosecutor, the District Office, Regional Office or Rapid Response Regional Team Coordinator shall prepare and transmit to the local or circuit prosecutor a report within 72 hours of initiation of a FAT/CAT accident investigation which shall contain pertinent inspection information, victim and witness information, accident circumstances, and possible Title 8 violative conditions. If a 72-Hour Notification Report is sent to a local or circuit prosecutor, then the Report shall also be sent to the BOI. See P&P C-36, Attachment B for 72-Hour Notification Report.

e. Expedited Civil Fatality/Catastrophe Investigation in Selected Cases

When the local or circuit prosecutor requests that Cal/OSHA expedite a FAT/CAT investigation, the District Manager, Regional Manager or Rapid Response Regional Team Coordinator, shall ensure that the particular civil investigation is completed (i.e., Closing Conference is conducted, and citations, if any, are issued) within 90 days from the date of the Opening Conference which initiated the FAT/CAT investigation.

4. Investigative Team Approach

If the District Manager determines that an investigative team, composed of experts in specific safety or health disciplines, e.g., pressure vessels, elevators, cranes, process safety management, electrical, or medicine, is required to effectively conduct a particular accident investigation, the District Manager shall so advise the Regional Manager, who will in turn advise the Deputy Chief for Cal/OSHA Enforcement of the need for an investigative team approach.

5. Equipment

Prior to leaving the District Office for the accident site, the District Manager shall ensure that compliance personnel assigned to conduct the investigation have selected personal protective equipment and other investigative equipment, such as sampling devices, which are appropriate to conduct the investigation.

6. Other Governmental Agency Involvement

a. Federal, State or Local Governmental Agency -- In General

(1) When the District learns of the involvement of a federal, state or local governmental agency in the investigation of an accident in which the Division is involved, notice of the involvement shall be immediately communicated through the Regional Manager to the Deputy Chief for Cal/OSHA Enforcement.

(2) When one or more federal, state or local governmental agencies are involved in an accident investigation in which the Division is also involved, the District Manager shall

ensure that compliance personnel conducting the Division's investigation work cooperatively with personnel from the other agencies.

b. Contractors State Licensing Board

When an accident investigation involves a licensed or unlicensed contractor, the District Manager shall ensure that copies of the OSHA 170, Cal/OSHA 170A, and related citations (without regard to final order status) are sent to the Regional Manager. After review, the Regional Manager is responsible for mailing a copy of all OSHA 170s, Cal/OSHA 170As, and related citations (without regard to final order status) to the CSLB, along with a contact telephone number in case the CSLB has any questions about the case or requires copies of any other investigation reports, including any citations issued or contestations filed. See Section H.4.b.

NOTE: Labor Code Section 6313.5 provides that "[T]he Division shall transmit to the Registrar of Contractors copies of any reports made in any investigation conducted pursuant to subdivision (a) of section 6313, and may, upon its own motion or at the request of the Registrar of Contractors, transmit copies of any other reports made in any investigation conducted pursuant to subdivision (b) of Section 6313, involving a contractor licensed pursuant to Contractors' License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code).".

D. INSPECTION PROCEDURES

NOTE: Inspection procedures contained in P&P C-1A are generally applicable to the conduct of all accident investigations. The following inspection procedures pertain only to accident investigations and are designed to supplement or modify the procedures found in C-1A.

1. Purpose

Even though the primary purpose of the accident investigation is to determine the cause of the accident, compliance personnel are also responsible for determining whether a violation(s) of any Title 8 Safety Orders caused the accident and whether citations should be issued pursuant to Labor Code Section 6317.

2. Scope

Every accident investigation shall include a comprehensive evaluation of the circumstances and cause(s) of the accident itself. The scope of the inspection may be expanded to include the investigation of non-accident conditions under the following conditions:

a. Compliance personnel have obtained information indicating the likelihood of serious hazards in non-accident areas of the accident site place of employment;

b. Examination of the employer's Cal/OSHA Log of Injuries and Illnesses (Log 300) demonstrates that a significant number, or type, of injuries or illnesses have occurred over a particular time period or in a particular department or operation.

c. An employee complaint alleging an unsafe or unhealthy condition at the accident site place of employment is received by the District while conducting the accident investigation;

d. The accident site place of employment is in a high hazard industry; or

e. A determination by the District Manager based on the accident site employer's history of previous violations.

3. Abbreviated Opening Conference

When an accident investigation involves a place of employment where an imminent hazard may exist, compliance personnel shall conduct an abbreviated opening conference consisting of the following items: (1) identification of compliance personnel; (2) explanation of the purpose of the inspection; (3) request for permission to enter the place of employment where the accident site is located; and (4) request for an employer and/or an employee representative to accompany compliance personnel during the inspection.

NOTE: A more extensive discussion of other opening conference topics can be conducted either at the exit conference after the initial inspection is completed, or at the closing conference.

4. Coordination with Bureau of Investigations

a. Whenever there is a single fatality, or serious injury to three (3) or more employees, the Bureau of Investigations (BOI) is mandated pursuant to Labor Code §6315 to conduct an accident investigation in order to determine whether any criminal violations have occurred.

b. When responding to the accident site, the BOI Special Investigator assigned to the investigation will contact compliance personnel on site to coordinate the BOI investigative activities with those of compliance personnel.

NOTE: See P&P C-42 for further information about BOI activities.

5. Notice of Accident-Related Violation

When an accident investigation is concluded, compliance personnel shall prepare and submit to the District Manager a Notice of No Accident-Related Violation (Cal/OSHA 170B) or a Notice of Accident-Related Violation (Cal/OSHA 170C), as appropriate.

NOTE: See P&Ps C-170B and C-170C for information on completion of Cal/OSHA 170B and 170C.

6. Family Contact

NOTE: Procedures relating to Family Contact apply to fatalities only and do not apply to accidents involving serious injury or exposure, regardless of how many employees are injured or exposed or the severity of the employees' injuries or exposure.

a. After initiating an accident investigation, compliance personnel shall compile a list of the names of all deceased accident victims, their current addresses, and the names of individual(s) listed in the employer's personnel records as next-of-kin, family members, and person(s) to contact in the event of an emergency.

b. When an accident investigation is initiated, the deceased employee's next-of-kin, family member, or other person designated by the employee to be notified in case of emergency shall be contacted initially by telephone and be given an opportunity to discuss the circumstances of the accident. Such an individual shall be notified that they can receive, upon request, timely and accurate information about the progress and findings of the accident investigation when it is ultimately completed.

c. At an appropriate time during the accident investigation, the District shall send to the deceased employee's next-of-kin or closest family member, e.g., spouse, parent, sibling, or offspring, a Family Contact Letter (See Attachment A for English version and Attachment B for Spanish version).

d. Copies of the accident investigation file shall be provided free of charge to the surviving family members of a deceased employee, employees disabled by the accident, or to family members representing workers who were disabled by the accident.

E. SPECIAL SITUATIONS

1. Jurisdiction

a. If, at any time during the course of an accident investigation, challenges or questions arise regarding the jurisdiction of the Division to conduct an accident investigation, compliance personnel shall immediately notify the District Manager.

b. If the District Manager cannot resolve the jurisdictional issue by reference to P&P C-11, the District Manager shall contact the Regional Manager to determine if the inspection should commence or continue pending resolution of the jurisdictional issue(s). The Regional Manager shall notify the Deputy Chief for Cal/OSHA Enforcement and the Legal Unit of the jurisdictional issue(s) and a determination shall be made by the Deputy Chief as soon as possible to commence or continue the investigation.

c. If more than one government agency has jurisdiction over an accident investigation, accident site, or a portion of an accident site, the District will inform the Regional Manager of the scope of activities of the other agency and conduct a coordinated investigation with the other government agency.

2. Rescue Operations

NOTE: See P&P C-37 and C-37A for further information about emergency response.

a. When rescue operations are being performed at an accident investigation site by a public safety agency, compliance personnel shall make immediate contact with a representative of the public safety agency directing the rescue operations and consult with the representative about safety aspects of the rescue. If the agency representative intends to use rescue procedures that are in violation of a Title 8 Safety Order(s), and less hazardous procedures are feasible which are not violations of Title 8 Safety Order(s), compliance personnel shall so advise the agency representative of this fact.

b. When rescue operations are being performed at an accident investigation site by a non-public safety agency employer, compliance personnel shall inform the employer what Title 8 Safety Order(s) are applicable to the rescue operation. Where appropriate, the Division shall direct non-public safety agency employers to rely on public safety agencies to perform rescue operations.

3. Refusal of Entry, Withdrawal of Consent To Inspect, and Imposition of Conditions on the Inspection

a. If the employer refuses entry to compliance personnel to the accident site or withdraws consent to inspect the accident site during the course of an investigation, compliance personnel shall contact the District Manager to obtain an inspection warrant pursuant to the procedures found in P&P C-25.

b. If the employer initially consents to the accident investigation, but during the course of the investigation imposes conditions upon the performance of the investigation which render an effective investigation difficult or impossible to conduct, compliance personnel shall contact the District Manager to determine whether an inspection warrant should be obtained. The District Manager will discuss the conditions and their effect on the conduct of the investigation with the Regional Manager and the Legal Unit.

4. Order to Preserve

An Order to Preserve (Cal/OSHA 25A) and the Cal/OSHA 250 Placard can be issued or served by the District only under the following conditions:

a. Employer has refused permission to enter the accident site;

b. Employer has withdrawn consent to enter the accident investigation;

c. Employer has placed conditions on the performance of the accident investigation which render an effective investigation difficult or impossible to conduct; or

d. In the opinion of the District Manager, it is necessary to preserve the accident site or any physical or documentary evidence contained at the accident site.

5. Collection of Evidence

a. As early as possible during the course of the accident investigation, compliance personnel shall determine what, if any, physical evidence must be secured for subsequent inspection and/or analysis. For instance, it may be necessary to conduct analytical tests on piping systems, machinery, equipment, or other items in order to determine the cause of the accident. To facilitate the required testing and analysis, it may be necessary to take physical custody of these items.

b. Prior to taking custody of any physical evidence, approval to do so shall be obtained from the District Manager and the Regional Manager in consultation with the Legal Unit. Any evidence acquired must be secured and the chain of custody maintained.

NOTE: Whenever evidence is acquired, compliance personnel shall complete a Cal/OSHA 170Y and comply with the instruction contained in the 170Y. See Attachment G.

c. For larger components that are difficult to handle or to transport, the Division, through the Legal Unit, may arrange for the joint custody of the item(s) with the employer.

6. Return or Release of Evidence

When the owner, or an owner's representative, of any evidence seized by the Division requests the return of the evidence, or the Division elects to return the evidence to the owner or the owner's representative, the District Manager shall, before releasing the evidence, first:

a. Advise the Legal Unit and the BOI that a request for return of the evidence has been received, or that the evidence is no longer needed by the District, and that the District is planning to release the evidence;

b. Determine if any litigation involving the Division is pending, or is anticipated, which would necessitate the Division retaining custody of the evidence;

(1) If any litigation involving the Division is pending, the evidence shall not be released;

(2) If litigation is pending, but it does not involve the Division, advise all known litigants in writing that:

(a) It is the Division's intent to release and return the evidence to the owner or the owner's representative; and

(b) Allow all interested parties 10 days to request that the evidence not be released, but be retained by the Division.

(3) If it cannot be determined that litigation is pending, the Division shall secure from the owner or the owner's representative a written statement that the owner is unaware of any pending or intended litigation.

c. Document the release of any evidence as follows:

(1) A signed receipt for the evidence shall be obtained by the Division and the receiver shall be given a signed receipt by the Division; and

(2) If any evidence has been destroyed, e.g. during destructive testing, or discarded while in the custody of the Division, a written statement describing the reason(s) why the evidence was destroyed or discarded shall be signed by the District Manager and the compliance personnel who originally took custody of the evidence.

F. INVESTIGATIVE TECHNIQUES

Accident investigation involves the gathering of oral and written statements from witnesses to the accident, documenting the conditions at the accident site through photographs, diagrams, maps or sketches, and collecting physical evidence including samples, documents and records.

1. Interviewing Witnesses

a. General Issues

(1) Familiarity with Accident Circumstances

Before interviewing a witness in an accident investigation, compliance personnel shall be familiar with the general circumstances of the accident in order to conduct an effective witness interview. As information accumulates during the course of an accident investigation, it may be necessary to reinterview certain witnesses.

(2) Language Barriers

A. Use of a Certified DIR Translator or Contract Translator

All Cal/OSHA accident investigator(s) shall make use of appropriate language translators when interviewing non-English-speaking injured worker(s) or employee witnesses. Appropriate language translators are Department of Industrial Relations employees who have been certified by the Department as bilingual translators in the

language spoken by the witness, or individuals available in person or by telephone through contractual arrangements between a language translation vendor and the Division.

B. Prohibition Against Use of Employer or Employer Representatives as Translators

Under no circumstances shall compliance personnel investigating a fatal or nonfatal accident make use of the services of the employer, or the employer's representative, to interview non-English-speaking injured worker(s) or employee witnesses.

b. Interview

(1) Types of Witnesses

(a) Percipient Witness -- is any person who saw or heard the accident, or observed the conditions prior to and/or at the time of the accident.

NOTE: The most important percipient witnesses in any investigation are the employees who were injured in the accident, other employees closely associated with the work activity at the time of the accident, and those employees responsible for supervising the work activity at the time of the accident.

(b) Witness -- is any person who possesses information relating to, or explaining, the circumstances leading up to, and including, the accident.

NOTE: It may be necessary to contact other persons who were not percipient witnesses in order to obtain an understanding of what occurred before or during the accident, e.g., other employees, experts or managers. This is particularly true where the percipient witnesses have suffered fatal injuries or are hospitalized and cannot be contacted immediately.

(2) Preparing for, and Conducting, the Interview

(a) Initial Contact with Witness

Effective communication between the compliance interviewer and the witness is essential to the conduct of a successful interview. The initial contact with the witness by the compliance interviewer more often than not determines the success or failure of the interview and should be perceived by the potential witness as non- threatening.

(b) Scheduling the Interview

Compliance interviewers shall schedule the interview at a time which is most conducive to obtaining a complete and accurate statement from the witness. Even though compliance interviewers should try to schedule the interview at the convenience of the

witness, it is important to conduct interviews of percipient witnesses as soon as possible after occurrence of the accident. Timely interviews are important in that the witness will normally not have had an opportunity to discuss the accident with others and "rethink" what occurred.

(c) Location of the Interview

When feasible, interviews at the accident site often result in the best witness statements. The benefits of holding the interview at the accident site include better recall of accident details by the witness and a more accurate positioning of relevant items and people involved to ensure a more factual account of the accident. If interviewing at the accident site is not feasible given the conditions at the site and/or the reluctance of the witness, another mutually agreeable location should be selected. Compliance interviewers should select a location at which the witness is comfortable and which will facilitate a thorough interview and an accurate witness statement.

(d) Interviewing Process

i. Discuss the purpose of the investigation and emphasize that the purpose of the interview is fact-finding and not fault-finding. Attempt to answer any questions the witness may have about the interview process before the actual interview begins.

ii. Use a tape recorder, Employee/Witness Statement Form (see Attachment D) or statement summary to record all witness statements during the course of the interview. See Section F.1.b.(4)(a) through (c).

iii. Compliance interviewers should ask the witness to relate in their own words what they know about the accident.

iv. The witness should be allowed to relate what they know about the accident with minimum of interruptions from the compliance interviewer.

v. If the witness is an employee injured in the accident and/or another employee, the compliance interviewer should ask the employee to explain the following:

I. Their work experience;

II. How long they have worked for their present employer;

III. How long they had been working in the job when they were injured in the accident;

IV. What type of training had been given to them prior to the accident and who trained them;

V. Where they were physically located at the accident site and what they were doing at the time of the accident;

VI. What they feel caused the accident; and

VII. If practical, have the injured employee and/or other employee witness explain the sequence of events which occurred at the time of the accident.

vi. Follow-up questions should be asked by the compliance interviewer to clarify facts or fill in any gaps in the witnesses' account of the accident.

vii. After the witness has completed his or her own account of the accident, the compliance interviewer should then relate back to the witness the interviewer's own understanding of the witness' account of the accident. At this time there will be an opportunity to correct any misunderstandings that may have occurred and to clarify, if necessary, any of the details of the accident.

(e) Sample Interview Questions Applicable to Most Accident Investigations

i. How long has the employee been employed by the employer?

ii. What was the employee doing at the time of the accident?

iii. Was the employee assigned to do the job (s)he was doing at the time of the accident, and who did the as signing?

iv. Who was the employee's immediate supervisor, or other supervisor, for the job the employee was doing at the time of the accident?

v. Was the employee trained in the specific job and the hazards of that job? Who provided the training? Is there documentation of the training?

vi. Were there any written procedures for the job that was being performed and was the employee following those procedures?

vii. Was the employee working alone? If not, who were the other employees and what were they doing at the time of the accident?

viii. Was the proper equipment, including personal protective equipment, being used for the job?

ix. Is the process, operation or job new to the worksite?

x. Was the injured employee being supervised? What was the proximity and adequacy of supervision?

xi. Did the employee receive hazard recognition training prior to the accident?

xii. What was the location of the accident? What was the physical condition of the area where the accident occurred?

xiii. What immediate or temporary action(s) could have prevented the accident or minimized its effect?

xiv. What long-term or permanent action(s) could have prevented the accident or minimized its effect?

xv. Had corrective action been recommended in the past, but no corrective action been taken?

(3) Special Interview Issues

(a) Confidentiality

i. Employees injured during an accident and other witnesses can be particularly difficult to interview. They may be fearful and reluctant to provide the compliance interviewer with accurate facts about the accident. The injured employee or other employees may feel embarrassed, may be fearful of disciplinary action, or be hesitant to talk for any number of reasons. A witness may not want to provide information that might place blame on a friend, other fellow workers, the foreman or supervisor or possibly even themselves.

ii. If a witness inquires if his or her statement will be held confidential, or refuses to give a statement unless the compliance interviewer promises that it will be kept confidential, the compliance interviewer shall advise the witness that the law provides the name of a person who makes a complaint to Cal/OSHA about an unsafe or unhealthy workplace condition can be kept confidential. The name of an employee who is interviewed during the course of an accident investigation can be kept confidential if the employee complains about an existing unsafe or unhealthy workplace condition. In addition, the Division may receive information in confidence; however, such information may be ordered disclosed by a court or tribunal under circumstances where a party seeks disclosure of the information over the Division's objection.

iii. Compliance interviewers shall not offer or grant confidentiality as an inducement to obtain a statement from a witness.

iv. However, once confidentiality is granted by a compliance interviewer, it must be respected. This can create problems in that if the witness is crucial to the Division's case, the Division may not be able to proceed to prosecute the case against the employer without breaching the grant of confidentiality.

v. Therefore, if a witness will not provide a statement without a grant of confidentiality, an attempt should be made to conduct an interview at some other time or at some other location, e.g, at the employee's home. If the witness still seeks a grant of confidentiality, confidentiality may be conferred after explaining to the witness the limitation described

in Section F.1.b.(3)(a)ii. immediately above or consideration can be given by compliance personnel to the issuance of an administrative subpoena pursuant to P&P C-24.

(b) Employer Attorney Participation

Sometimes an attorney(s) for the employer, usually large corporate employer(s), will attempt to be present during a witness interview. Compliance personnel should make a determination if the attorney who seeks to be present during the interview actually represents the witness being interviewed. If not, the attorney does not have the right to be present unless the witness requests specifically that the attorney remain. If the witness is a supervisor or other management representative of the employer, the employer's corporate counsel normally will be present during the interview.

(c) Refusal To Be Interviewed

i. Even though the Division has the authority in Labor Code Section 6314 to interview all witnesses to an accident, some witnesses who the Division would like to interview may refuse to give a statement.

ii. If a potential witness refuses to give a statement, the compliance interviewer shall immediately notify the District Manager.

iii. The District Manager, through the Regional Manager, shall consult with the Legal Unit about the appropriateness of issuing an administrative subpoena to compel the witness to provide a statement.

NOTE: Even after being served with an administrative subpoena, supervisors or other management personnel may legitimately invoke their Fifth Amendment privilege against self-incrimination in refusing to provide the Division a statement.

(4) Methods for Recording Witness Statements

(a) Tape Recording

Tape recording is the preferred method for recording a witness statement. If a tape recorder is used, it is important to record on the tape prior to the interview the following information:

i. The time, location and who is present at the interview;

ii. The acknowledgement of all present that a tape recorder is being used;

iii. Consent to tape record the statement; and

iv. Indication by time when breaks are taken during the course of the interview.

(b) Written Statement (See Cal/OSHA 170AX, Attachment D)

A statement written by the witness or by the compliance interviewer, and then signed by the witness is the next preferred method for recording a witness statement. A more complete statement may be obtained if it is written by the compliance interviewer and then reviewed and signed by the witness.

(c) Statement Summary

If the witness refuses to have his or her statement tape recorded, or refuses to give a written statement, then a written summary of the interview must be prepared by the compliance interviewer. The statement summary should contain the date, time, location of the interview, and a summary of the interview in as much detail as possible to ensure that if, at a later time, the witness makes other statements which are inconsistent with his or her original statement, the statement prepared by the compliance interviewer will be credible.

(d) Post-Interview

During the course of the accident investigation, additional facts may come to the attention of compliance personnel which will require reinterviewing witnesses or require that newly identified witnesses be interviewed.

2. Photographs, Diagrams, Maps and Sketches

a. General

Documentation of the accident by means of photographs, diagrams, maps and sketches of the accident site and work activities is as important in an accident investigation as obtaining complete and accurate witness statements.

b. Photographs

(1) Photographs of the accident site, and the equipment, machinery or other items associated with the accident shall be taken to provide a permanent record of the accident conditions.

(2) The following types of photographs shall be taken:

(a) Photographs showing an overview of the accident site in general; and

(b) Photographs showing a detailed or close-up view of the accident site, equipment damaged during the accident, or other instrumentalities involved in the accident.

(3) Compliance personnel shall identify on the back of each photograph taken and developed the date and time the photograph was taken and what the photograph depicts with sufficient detail to prevent any confusion.

NOTE: Identification of photographs is especially important when "close-up" photographs are taken as the photograph does not provide its own frame of reference. When appropriate, utilize ruler or other items in the photograph to provide an internal frame of reference within the photograph itself.

(4) Compliance personnel shall ascertain whether other government agencies involved in the investigation of the accident, or print or electronic media, have taken and developed photographs or film of the accident and shall request copies of those photographs or films.

(5) Photographs taken by the Division shall be deemed confidential as required pursuant to Labor Code §6314 and shall not be released to the public unless the employer consents to their release.

c. Diagrams, Maps and Sketches

(1) Diagrams, maps and sketches are an effective way to describe the accident site and work operations involved in the accident. Diagrams, maps and sketches are especially effective in depicting the location of employees involved in work operations and their relationship to the accident instrumentalities, such as machinery, equipment and other items.

(2) As with photographs, it is important to present an overall perspective of the accident site. For instance, if the accident involves high voltage contact by a crane, the diagram, map or sketch should depict an overview of the accident site, noting the location of the wires, the employees and equipment with measurements, as well as a profile view depicting the height of the wires in relation to the crane and the adjacent work area.

(3) Diagrams, maps and sketches do not have to be drafted to scale. However, it is important to clearly identify critical items depicted in the diagram, map or sketch, as well as reference items, including the following:

(a) The identity of the employees;

(b) Name of the machinery or equipment;

(c) Measurements of distance; and

(d) Reference to compass directions or to adjacent streets or buildings.

NOTE: Where possible, review the diagram, map or sketch with the accident witnesses and have them sign the diagram, map or sketch to attest to its accuracy.

(4) Where it is necessary to depict numerous items, the long-hand description of items may clutter the diagram, map or sketch making it unreadable. In such instances, use a legend at the bottom of the diagram, map or sketch, i.e., a letter or number designation given to the items depicted in the diagram, map or sketch with the long-hand description then provided in the legend.

(5) The graph side of the OSHA 94 (Note Taking Sheets) may be used for any diagrams, maps or sketches.

3. Collection of Documents, Records and Other Items

a. Documents, records and other papers constitute an important element of every accident investigation. Often documentary evidence is the only type of evidence that will reveal the cause(s) of the accident. Papers lead to a thorough examination of the policies, standards and specifications that created the environment or shaped the attitudes and actions of people involved in the accident. They often show irrefutable evidence that generally does not come out in witness interviews.

b. Documents, records and other items need to be collected at the time of the accident and preserved until they can be examined and considered in the analysis. When used in an appeals case, it is particularly important to be able to prove that the documents were secured and unchanged from the time of the accident until made a matter of record. Accident investigation pre planning should include procedures for the identification of documents and records to be collected and designation of who will be responsible for their collection.

c. The Division has the authority to review and obtain custody of all documents and records relevant to the investigation and may do so by means of a subpoena duces tecum. If compliance personnel are refused their legitimate request to examine or copy relevant documents or records, they shall notify the District Manager who will in turn consult with Legal Unit regarding obtaining a subpoena or issuing an Order To Preserve (Cal/OSHA 25A).

NOTE ONE: When an employer declines to provide documents, records or other items to the Division unless they are held confidential, the District Manager will consult with the Legal Unit to determine if and how the documents, records or other items can be held confidential.

NOTE TWO: See P&P C-24 for procedures to obtain a subpoena duces tecum.

d. Recommended Documents for Collection

(1) Injury and Illness Prevention Program;

(2) Records that establish management policies governing the activity involved in the accident, e.g., Code of Safe Work Practices;

(3) Condition reports, hazard reports and analysis records that reflect decisions regarding the accident environment;

(4) Facility specifications and descriptions that construct the work environment;

(5) Purchasing specifications and directives that reflect decisions regarding equipment and work materials;

(6) Equipment installation, repair, maintenance and critical parts inspection records that reflect priorities and control of work;

(7) Equipment manufacturers' and company's operator manuals, work instructions, operator training criteria and skill certification requirements that reflect program standards;

(8) Employee selection, placement, and training records that relate to operators, repair and maintenance workers and supervisors;

(9) Work records that relate to the job and individual employee with respect to task assignment, classification, hazard exposure or health exposure; and

(10) Log of Injuries and Illnesses (CAL/OSHA 300) for current and subsequent years along with Employer's Report of Injuries and Illnesses (5020) for accident and any other identified injuries or illnesses of interest.

NOTE: This list is not exhaustive and is intended to provide guidance as to the types of documents and records that may be relevant to the investigation. The guiding principle for compliance personnel is to collect all records relating to the accident until knowledge of factors or examination of individual records determines that certain records are not relevant to the accident investigation.

G. OFFICE PROCEDURES

For all fatality/catastrophe accident events, the completed OSHA 170, together with the Cal/OSHA 170A and the 170B or 170C, shall be submitted to the District and Regional Manager for review and signature prior to the Closing Conference, whether or not any citations are proposed to be issued. For all other accident events, the completed OSHA 170, together with the Cal/OSHA 170A, and the 170B or 170C, shall be submitted to the District Manager for review and signature.

H. FORMS DISTRIBUTION

1. The District Office is responsible for filing the OSHA 170 and a copy of the Cal/OSHA 170A, and 170B or 170C, with the inspection report after being signed by the compliance personnel, the District Manager and the Regional Manager, in the case of a fatality or catastrophe (see Section G.1. above). If more than one inspection results from

the event, e.g., multi-employer worksites, file a copy of the OSHA 170 in all resulting case files.

2. The District Office is responsible for data entry of the OSHA 170 into IMIS and for mailing a photocopy of the OSHA 170 and 170A to the Bureau of Investigations (BOI). District Offices in Regions I and II and Mining and Tunneling Unit North shall submit to the BOI office in San Francisco, and District Offices in Regions III and IV and Mining and Tunneling South shall submit to the BOI office in Los Angeles.

3. The District Office is responsible for mailing a photocopy of the OSHA 170 and Cal/OSHA 170A to the Regional Manager, together with the Cal/OSHA 1 (which has the employer address). When the investigation is of a licensed or unlicensed contractor, a copy of the related citations, without regard to final order status, shall be included.

4. The Regional Office is responsible for mailing a copy of all OSHA 170s, Cal/OSHA 170As, and related citations, without regard to final order status, related to investigations of licensed or unlicensed contractors to:

The Contractors State Licensing Board (CSLB) -- ATTN: Grace Curtis, 12501 East Imperial Highway, Suite 620, Norwalk, CA 90650; telephone (562) 466-6032, together with a cover memorandum itemizing the investigations attached thereto and corresponding District Office contact information.

NOTE: A copy of the aforementioned cover memorandum shall be sent to Deputy Chief for Cal/OSHA Enforcement

5. The District Office is responsible for mailing a copy of the Cal/OSHA 170B or 170C to the employer by certified mail, return receipt requested, when instructed by the District Manager.

I. IMIS DATA ENTRY FOR THE OSHA 170

See IMIS Data Entry for the OSHA 170

J. NARRATIVE SUMMARY OF INVESTIGATION (Cal/OSHA 170A)

NOTE: Compliance personnel shall complete all items on the Cal/OSHA 170A and shall not merely rewrite or abstract the information already entered on the OSHA 170.

1. Purpose

Cal/OSHA 170A is designed to provide a concise summary of the accident investigation in narrative form.

2. Content

The Narrative Summary of the Investigation shall, at a minimum, include the following elements:

a. Description of the accident:

(1) Date, time and location of accident;

(2) How Division learned of the accident and date and time of compliance personnel's arrival at the accident site;

(3) Employees and nonemployees killed, injured or exposed, and how they were killed, injured or exposed. Do not use employees' names in the narrative summary. Rather, assign a number to the employees or nonemployee listed in "Information on Injured," and refer to that employee or nonemployee by that number.

(4) Where injured employees were medically treated or hospitalized.

b. Description of the employer(s) at whose worksite(s) the accident occurred:

(1) Type of establishment; and

(2) General industrial activity in which the employer engages and the specific activity taking place at the accident site.

c. Responses to the following questions:

(1) What were the workers doing, or what process was in progress, at the time of the accident?

(2) Who was the employee's immediate supervisor, or other supervisor, for the job the employee was doing at the time of the accident?

(3) Where were the killed, injured or exposed employees when the accident occurred?

(4) What kind of equipment was involved, if any? Include manufacturer's name, name of equipment, model number or serial number, and any significant measurements, such as depth of trench or height of scaffold.

(5) What type of injuries were sustained?

(6) What factors caused the accident?

NOTE: Indicate what factors caused the accident based only on facts discovered during the course of the accident investigation. Compliance personnel shall not include statements which are not based on a factual foundation, e.g., statements that "employee

negligence" or "inattention to the job" should not be included in the narrative summary unless substantiated by facts.

d. List of witnesses or persons interviewed, including telephone numbers and addresses.

NOTE: Include the identity of the employer, officer, management officials, or supervisor who had direction, management, control or custody of the accident site. Such information is important to the accident investigation performed by personnel from the Bureau of Investigations.

e. List the accident-related violation(s), if any, and their severity. Indicate whether no violations were found and the reason(s) for this.

3. Use photographs, diagrams, maps or sketches if they would help you in describing the accident and the reader in understanding the accident. Attach the reports from other investigating agencies, if available.

IMIS Data Entry for the OSHA 170

Attachments:

A. Sample Family Contact Letter
B. Sample Family Contact Letter (Spanish)
C. OSHA 170
D. Cal/OSHA 170A - Front
Cal/OSHA 170A - Back
E. Cal/OSHA 170AX - Front
Cal/OSHA 170AX - Back
F. Investigation Summary and Hazardous Substance Codes [EXAMPLE NOT AVAILABLE]
G. Cal/OSHA 170Y

QUALITY BASICS

Root Cause Analysis For Beginners

by James J. Rooney and Lee N. Vanden Heuvel

In 50 Words Or Less

- Root cause analysis helps identify what, how and why something happened, thus preventing recurrence.
- Root causes are underlying, are reasonably identifiable, can be controlled by management and allow for generation of recommendations.
- The process involves data collection, cause charting, root cause identification and recommendation generation and implementation.

Definition

Although there is substantial debate on the definition of root cause, we use the following:

1. Root causes are specific underlying causes.
2. Root causes are those that can reasonably be identified.
3. Root causes are those management has control to fix.
4. Root causes are those for which effective recommendations for preventing recurrences can be generated.

Root causes are underlying causes.

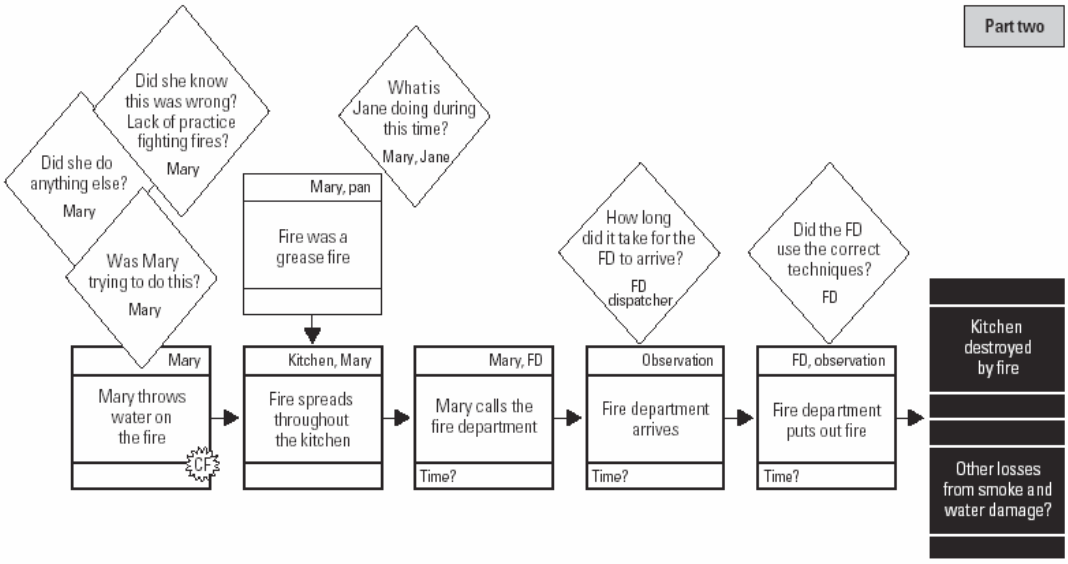
The investigator's goal should be to identify specific underlying causes. The more specific the investigator can be about why an event occurred, the easier it will be to arrive at recommendations that will prevent recurrence.

Root causes are those that can reasonably be identified.

Occurrence investigations must be cost beneficial. It is not practical to keep valuable manpower occupied indefinitely searching for the root causes of occurrences. Structured RCA helps analysts get the most out of the time they have invested in the investigation.

Root causes are those over which management has control.

Analysts should avoid using general cause classifications such as operator error, equipment failure or external factor. Such causes are not specific enough to allow management to make effective changes. Management needs to know exactly why a failure occurred before action can be taken to prevent recurrence. We must also identify a root cause that management can influence.



Step 1 - Data Collection
The first step in the analysis is to gather data. Without complete information and an understanding of the event, the causal factors and root causes associated with the event cannot be identified. The majority of time spent analyzing an event is spent in gathering data.

Step 2 - Causal Factor Charting
Causal factor charting provides a structure for investigators to organize and analyze the information gathered during the investigation and identify gaps and deficiencies in knowledge as the investigation progresses. The causal factor chart is simply a sequence diagram with logic tests that describes the events leading up to an occurrence, plus the conditions surrounding these events.

Preparation of the causal factor chart should begin as soon as investigators start to collect information about the occurrence. They begin with a skeleton chart that is modified as more relevant facts are uncovered. The causal factor chart should drive the data collection process by identifying data needs.

Data collection continues until the investigators are satisfied with the thoroughness of the chart (and hence are satisfied with the thoroughness of the investigation). When the entire occurrence has been charted out, the investigators are in a good position to identify the major contributors to the incident, called causal factors. Causal factors are those contributors (human errors and component failures) that, if eliminated, would have either prevented the occurrence or reduced its severity.

In many traditional analyses, the most visible causal factor is given all the attention. Rarely, however, is there just one causal factor; events are usually the result of a combination of contributors. When only one obvious causal factor is addressed, the list of recommendations will likely not be complete. Consequently, the occurrence may repeat itself because the organization did not learn all that it could from the event.

Step 3 - Root Cause Identification
After all the causal factors have been identified, the investigators begin root cause identification. This step involves the use of a decision diagram called the Root Cause Map to identify the underlying reason or reasons for each causal factor. The map structures the reasoning process of the investigators by helping them answer questions about why particular causal factors exist or occurred. The identification of root causes helps the investigator determine the reasons the event occurred so the problems surrounding the occurrence can be addressed.

Step 4 - Recommendation Generation and Implementation
The next step is the generation of recommendations. Following identification of the root causes for a particular causal factor, achievable recommendations for preventing its recurrence are then generated.

The root cause analyst is often not responsible for the implementation of recommendations generated by the analysis. However, if the recommendations are not implemented, the effort expended in performing the analysis is wasted. In addition, the events that triggered the analysis should be expected to recur. Organizations need to ensure that recommendations are tracked to completion.

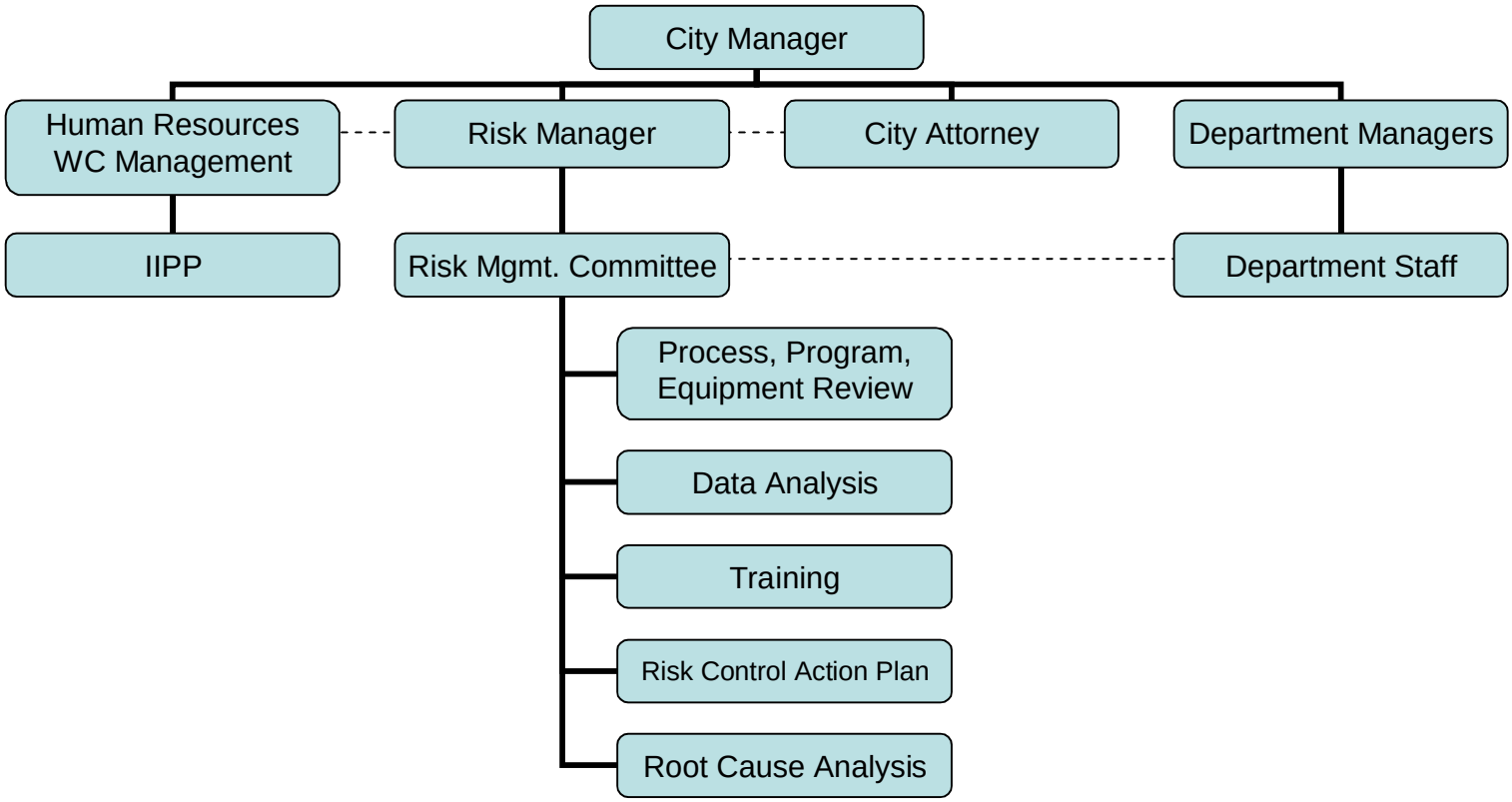
TABLE 1 Root Cause Summary Table

Event description: Kitchen is destroyed by fire and damaged by smoke and water. **Event #:** 2003-1

Causal factor # 1	Paths Through Root Cause Map	Recommendations
Description: Mary leaves the frying chicken unattended.	• Personnel difficulty. • Administrative/management systems. • Standards, policies or administrative controls (SPACs) less than adequate (LTA). • No SPACs.	• Implement a policy that hot oil is never left unattended on the stove. • Determine whether policies should be developed for other types of hazards in the facility to ensure they are not left unattended. • Modify the risk assessment process or procedure development process to address requirements for personnel attendance during process operations.
Causal factor # 2	**Paths Through Root Cause Map**	**Recommendations**
Description: Electric burner element fails (shorts out).	• Equipment difficulty. • Equipment reliability program problem. • Equipment reliability program design LTA. • No program.	• Replace all burners on stove. • Develop a preventive maintenance strategy to periodically replace the burner elements. • Consider alternative methods for preparing chicken that may involve fewer hazards, such as baking the chicken or purchasing the finished product from a supplier.
Causal factor # 3	**Paths Through Root Cause Map**	**Recommendations**
Description: Fire extinguisher does not operate when Mary tries to use it.	• Equipment difficulty. • Equipment reliability program problem. • Equipment proactive maintenance LTA. • Activity implementation LTA.	• Refill the fire extinguisher. • Inspect other fire extinguishers in the facility to ensure they are full. • Have incident reports describing the use of fire protection equipment routed to maintenance to trigger refilling of the fire extinguishers.
	• Equipment difficulty. • Equipment reliability program problem. • Administrative/management systems. • Problem identification and control LTA.	• Add this fire extinguisher to the audit list. • Verify that all fire extinguishers are on the quarterly fire extinguisher audit list. • Have all maintenance work requests that involve fire protection equipment routed to the safety engineer so the quarterly checklists can be modified as required.
Causal factor # 4	**Paths Through Root Cause Map**	**Recommendations**
Description: Mary throws water on fire.	• Personnel difficulty. • Company employee. • Training. • Training LTA. • Abnormal events/emergency training LTA.	• Provide practical (hands-on) training on the use of fire extinguishers. Classroom training may be insufficient to adequately learn this skill. • Review other skill based activities to ensure appropriate level of hands-on training is provided. • Review the training development process to ensure adequate guidance is provided for determining the proper training setting (for example,classroom, lab, simulator, on the job training, computer based training).

Paths Through Root Cause Map is a trademark of ABSG Consulting.

Sample Risk Management Organization



Sample Risk Management Organization

Taken from City of San Bruno's RISK MANAGEMENT MANUAL (DRAFT SBHR 10/17/03)

I. RISK MANAGEMENT -THE PURPOSE, PROCESS AND ORGANIZATION

II. DEFINITION

Risk management is planning for the negative consequences of any decision, process, action, or lack of action.

Effective risk management involves identification of the areas of an organization at risk, analysis, selection and implementation of the appropriate techniques to minimize the risks, and monitoring of the results.

III. RISK MANAGEMENT STEPS

The typical steps of risk management include:

1. **Risk identification**: identifying the services and assets that pose a risk of financial loss to your community.

2. **Risk evaluation**: determining the frequency and severity of particular losses.

3. **Risk treatment**: examining ways to manage risk by preventing accidents, minimizing losses after an accident, as well as by exploring ways to cover losses financially.

4. **Selection and implementation of treatments**: determining which risk treatment measures are most appropriate, and then putting them into place.

5. **Monitoring the results of treatment actions**: assessing the effectiveness of the risk management steps taken.

6. **Modifying the procedures** to reflect experience.

IV. METHODS OF TREATING RISK

There are two methods of treating risk:

1. Risk Control

a. Avoid the risk altogether.

b. Transfer risk to an outside party through agreement.

c. Control the risk through training programs, inspections, rules, safety equipment, etc.

2. Risk Financing

a. Retain the risk when the annual potential loss is so small that it can be treated as normal operating expense.
b. Transfer the risk by purchasing insurance.

V. RISK MANAGEMENT PHILOSOPHY

It shall be the City of San Bruno's policy to handle risks in the following manner (except when extenuating circumstances dictate otherwise).

1. Avoid

All accidental losses which occur with a high frequency and a high severity shall be avoided.

2. Transfer

The City shall transfer to others the responsibility of all risks of loss in all its contractual relationships. The City shall require all contractors to provide a Certificate of Insurance and an endorsement specifically naming the City as an "additional insured." The City shall include "hold harmless" clauses in all contracts.

3. Self Insure

The City shall insure itself against high frequency and low severity losses[1] when such losses will not significantly impact the City's finances, or when the purchase of insurance coverage would be financially prohibitive. The City shall establish this self- insurance through a funded reserve system. The City shall determine the annual funding contribution by accounting for losses during the previous budget cycle, present reserves, and future losses as predicted on a sound actuarial basis.

4. Retain

The City shall retain all accidental losses which occur with a low frequency and a low severity as a normal business expense when the City can absorb such losses with no significant financial impact. Examples of this type of loss would be plate glass coverage and automobile physical damage.

5. Purchase Insurance

The City shall cover all accidental loses which occur with a low frequency and a high severity through the purchase of excess insurance. Though loss in this area does not occur often, such a loss could be financially devastating if not properly funded. This includes such areas as property, casualty, and fidelity.

VI. RISK MANAGEMENT ORGANIZATION

An effective risk management program is formulated and implemented at each level of the organization.

Responsibility for the major areas of risk management (Tort Liability, Workers' Compensation, Property, Contracts and Safety) should be coordinated throughout all levels of the organization.

Tort Liability

1. City Clerk - All claimants must file any claims against the City of San Bruno with the City Clerk's office. The City Clerk shall stamp, record and distribute the claims to the applicable Department Head and the City Attorney, who is designated as Risk Manager. The City Clerk also maintains an insurance policy register.

[1]These types of losses occur often but do not have a severe effect on the City's finances. An example would be minor sewer backups or chip-seal damage.

2. City Attorney - The City Attorney, as Risk Manager, receives all claims against the City; and coordinates handling of claims with the City Clerk, the City's outside Claims Administrator, and all appropriate City departments. The City Attorney coordinates with legal counsel assigned to claims by the City's outside Claims Administrator or resolves and/or defends claims and suits as appropriate. The City Attorney has the authority to accept or deny claims and to approve settlements up to $15,000 without City Manager or City Council approval.

3. City Council - The City Council approves settlements over $25,000 as appropriate. The City Council has delegated to the City Attorney authority to accept or deny claims and to approve settlements up to $15,000.

4. City Manager - The City Manager in conjunction with the City Attorney approves settlements up to $10,000 over the City Attorney's solo authority as allowed by Council.

5. Department Heads - Department Heads review all tort liability, incidents involving their areas of responsibility and cooperate with other staff in the disposition and resolution of claims and recommendations for improvements.

6. City Safety Committee - The Safety Committee reviews incident reports referred to it by the City Attorney and makes recommendations regarding safety issues.

7. All Employees - All employees must report promptly to their supervisors any incident which they believe might result in a claim against the City. They must also cooperate with and assist in the investigation of accidents to identify correctable causes and to prevent their recurrence.

Workers' Compensation

1. City Attorney - The City Attorney, as Risk Manager, receives all workers' compensation claims from the departments, reviews claims with the City Manager, and coordinates the handling of claims with the City's outside Claims Administrator and the appropriate department. The City Attorney coordinates with legal counsel assigned to claims by the City's outside Claims Administrator. The City Attorney has the authority to accept or deny claims and to approve settlements up to $##,000 without City Manager or City Council approval.

2. City Council - The City Council approves settlements over $##,000 as appropriate. The City Council has delegated to the City Attorney authority to accept or deny claims and to approve settlements up to $##,000.

3. City Manager - The City Manager in conjunction with the City Attorney approves settlements up to $##,000 over the City Attorney's solo authority as allowed by Council.

4. Department Heads - Department heads maintain and promote safe and healthful working conditions throughout the department. They also review all workers' compensation claims in their areas of responsibility and make recommendations for prevention. They review the department's loss experience and cost analysis figures and evaluate the progress of the City's acciden1 prevention efforts.

5. City Safety Committee - The City Safety Committee reviews incident reports referred to it by the City Attorney and makes recommendations regarding the preventability of accidents. The committee also promotes safe working conditions and practices.

6. All Employees - All employees must report promptly to their immediate supervisor any industrial accident, injury or occupational illness, regardless of the degree of severity. Failure to report an accident may result in disciplinary action.

Property

1. City Attorney - The City Attorney, as Risk Manager, shall instruct the Department Heads to inspect City facilities under their jurisdiction in order to identify any dangerous conditions existing on City property especially those created by a City employee's "negligent or wrongful act or omission…within the scope of his employment." (See California Government Code Section 835(a).)

   Each Department Head shall notify the City Attorney and City Manager of any potential exposures. The City Attorney, City Manager and the Department Heads shall formulate measures to mitigate such potential hazards and/or risks.

   The Finance Department shall maintain accurate records of the city's assets, in order to aid accurate property appraisals and to ensure adequate insurance coverage.

   City employees should inform the City Attorney of any unusual circumstances involving city properties. The City Attorney should participate in processes related to review of construction of new city facilities.

The City Attorney should work closely with all Department Heads and the ABAG PLAN (Association of Bay Area Governments Pooled Liability Assurance Network) Administrator to ensure that each property type is adequately insured, and that adequate specialized insurance such as Flood and Earthquake, is provided, if deemed necessary.

2. Department Heads - Department Heads should inform the City Attorney whenever they acquire new property, such as vehicles, to ensure proper risk coverage.

3. City Finance Director - The Finance Director should regularly conduct Claims Audits to ensure the City has the financial ability to sustain the claims reserves.

4. All Employees - The City should utilize its Employees as a resource to assist the City in its risk avoidance efforts. All City Employees should be trained to be a "second set of eyes" for the City Attorney, since they are more likely to be exposed to changing conditions in the field.

Contracts

1. City Clerk - Under direction of the City Manager and City Attorney, the City Clerk shall provide all departments with the City's insurance, hold harmless and indemnification standards. The City Clerk also reviews all contracts to assure that the contracts meet these standards.

2. City Attorney - the City Attorney advises departments on agreements, contracts, deeds, easements and other legal documents for form and compliance to the City's hold harmless and indemnification standards.

3. City Council - The City Council approves contracts as appropriate.

4. City Manager - The City Manager approves contracts as appropriate.

5. Department Heads - Department Heads review all agreements, contracts, deeds, easements and other departmental documents for compliance with the City's insurance, hold harmless and indemnification standards.

6. All Employees - All employees who draft contracts, easements and other documents will ensure that these documents comply with the City's insurance, hold harmless and indemnification standards.

Safety

1. Risk Manager - Under direction of the City Manager, the City Attorney as the City's designated Risk Manager, is responsible for the overall implementation of the City's safety practices and procedures. The City Attorney serves as staff to the City's Safety Committee.

2. City Manager - The City Manager exercises the authority of the City for compliance with Federal, State and municipal safety requirements.

3. Department Heads - Department Heads are responsible for maintaining and promoting safe and healthful working conditions throughout their departments.

   Department Heads shall assure that their equipment, facilities and programs are safe, and that their departments follow all applicable OSHA and Consumer Safety Product Commission guidelines. The Department Heads shall meet to discuss safety issues, to make recommendations to eliminate potential hazards and risks, when possible, and to recommend policy changes to the City Manager.

4. City Safety Committee - In accordance with State law, the City shall have a City Safety Committee to promote safe working conditions and practices. The City Safety Committee meets monthly to discuss health and safety issues, and to recommend appropriate improvements. The Committee's members serve as primary contacts for risk management and loss control activities in their departments or facilities. Its members also assist in risk identification inspections and audits.

5. All Employees - All City Employees shall promote safety practices among their coworkers and maintain open communications regarding risk and safety matters. City Employees shall use the proper safety devices and protective equipment in their work. They shall obey all safety rules, and promptly report all unsafe activities, practices or conditions to their immediate supervisor.

Risk Management Committee Charter

1. Purpose

   The Risk Management Committee (RMC) provides oversight and coordination for the City's safety and risk management programs. These programs include, but are not limited to, employee safety and health, workers compensation, general liability, property, vehicle, and financial risk management.

   Its members provide data, information, and analysis of the City's actual and potential risk exposures to its departments and Council.[1] This information provides the basis for allocation of resources, risk control and mitigation, and adherence to the City's Risk Management Policy.

2. Membership
   a. The committee is chaired by the designated Risk Manager.
   b. Permanent members include:
      i. Department heads
      ii. City Manager
      iii. Finance Director
      iv. Chair of City Safety Committee (if separate)
   c. Other participants may include those with needed technical expertise.

   Note: If this committee is combined with the Safety Committee, membership should include representatives from employee labor groups.

3. Meeting Frequency

   The Risk Management Committee meets bi-annually or on an emergency basis. (If combined with Safety Committee, it must meet quarterly to comply with the City's IIPP requirements.) The schedule for these meetings should allow for risk management goals and action plans to be addressed in the City's annual budgeting and Capital Improvement Program (CIP) process.

4. Role and Function of the Committee

   a. Trend analysis and monitoring of data relating to accidents and claims.[2]
   b. Review claims made against the City and their costs to identify major cost areas and prioritize action plans.
   c. Identify and evaluate risk exposures including financial, infrastructure, safety and health of employees and the public, vehicle operations, and other areas of concern.
   d. Evaluate and recommend risk mitigation and control strategies.

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[1] The inclusion of the City Council in this instance is optional.

[2] ABAG PLAN provides a Management Data Report twice yearly to assist this process. Workers' Compensation insurers, TPAs or JPAs may provide similar information for employee injuries. Internal logs and records should be used as well.

e. Review risk financing options.
f. Ensure risk management programs are effective and support the City's Risk Management Policy.
g. Review inspection programs, findings, and safety and health issues submitted by employees, safety committees, and citizen groups which have City-wide implications.
h. Evaluate proposed programs, events, and major equipment purchases to determine if they expose the City to unacceptable levels of risk, or recommend ways to minimize their risks.[3]
i. Review and ensure the quality of accident investigations performed by departments.
j. Develop and maintain a protocol for communicating information following a serious safety or health incident to Council, employees, and the public. This should include interaction with media representatives.

5. Committee Deliverables
    a. Meeting Minutes
    b. Prioritized Action Plans based on trends or potential exposures
    c. Recommendations to persons/groups of authority regarding safety and risk issues which may require policy change
    d. Records of follow up and action plan completions

6. Authority
    a. The Risk Management Committee has the authority, with the approval of the City Manager and Finance Director, to authorize action plans to address significant trends or risk exposures which could negatively impact the City. Negative impacts may include human suffering; financial, cultural, or political losses; and interference with the City's ability to perform the necessary functions of local government.

7. Committee Performance Measures
    a. The RMC maintains a current list of five to ten significant risk exposures, which are prioritized according to potential impact on the City.
    b. The RMC develops action plans annually to address the City's most frequent and/or severe claim types. These may include, but not be limited to, workers compensation, liability, vehicles, or property damage.
    c. Meeting minutes reflect the status of action plans, active follow-ups, and steps to implement plans.
    d. Risk exposure identification and action plan summaries are provided to all employees and suggestions for mitigation considered.

[3] The Risk Evaluation tool in the ABAG RM Manual will assist in the evaluation process.

Risk Evaluation Process

This or a similar form may be used to structure the evaluation of potential risks associated with obtaining new equipment, starting new programs, or other activities that may expose the City or Town to liability. Risk evaluation and assessment should be considered along with other key data such as cost, resources, staffing, and others.

1. Identify the item to be evaluated.

2. Make a list of the potential risks associated with the item.

3. Determine the likelihood that the risk or hazard will actually occur **(L),** and if it did, the likely consequence **(C)**.

4. This form creates a matrix called **Measure of Risk** where the likelihoods of occurrences may be weighed against their consequences using codes for action that would be required.

5. For any potential hazard or risk above the rating of “low risk,” determine if reduction or mitigation can be achieved through the use of the risk management principles of elimination, substitution, engineering, administration, or the use of protective equipment.

6. Based on the analysis, develop a recommendation to pursue the item as it stands, pursue with modifications or more evaluation, or conclude that the risks outweigh potential benefits. Recommendations should be developed and submitted to those accountable for ensuring the item is implemented at the lowest possible level of risk.

THE UNIVERSITY OF WESTERN AUSTRALIA

RISK MANAGEMENT MATRIX

1.**HAZARD IDENTIFIED** Work Area, Task/Activity, Equipment, Procedures involved

2. RISK ASSESSMENT

A) MEASURE OF CONSEQUENCE FOR PERSONAL INJURY

Descriptor	Example Detail Description
Fatality	Death
Major injury	Extensive injuries, lost time injury >5 days , permanent disability (eg broken bones, major strains)
Minor injury	Medical treatment required, lost time injury from 1 – 5 days (eg minor strains)
First aid	First aid treatment where medical treatment not required (e.g minor cuts and burns)
Negligible	Incident does not require medical treatment, property damage may have occurred

B) MEASURE OF LIKELIHOOD

Descriptor	Description
Very likely	It is expected to occur at some time in the near future
Likely	Will probably occur in most circumstances
Occasionally	Might occur at some time
Unlikely	Could occur at some time
Highly unlikely	May occur in exceptional circumstances

C) MEASURE OF RISK

Likelihood (L)	Consequences (C)				
	Negligible	First aid	Minor	Major	Fatality
Very likely	H	H	E	E	E
Likely	M	H	H	E	E
Occasionally	L	M	H	E	E
Unlikely	L	L	M	H	E
Highly unlikely	L	L	M	H	H

E: extreme risk: Notify supervisor, Head of Department and Safety and Health Office as required. Immediate action required.
H: high risk: Notify supervisor and Safety and Health Representative immediately. Action identified within 1 week.
M: moderate risk: Notify supervisor and Safety and Health Representative. Take immediate action to minimise injury with remedial action identified within 2 weeks.
L: low risk: Supervisor attention required. Remedial action identified within 1 month**.**

3. RISK CONTROL OPTIONS

Elimination

Substitution

Engineering

Administration

Personal protective equipment

4. RISK MANAGEMENT SUMMARY

IDENTIFIED HAZARDS	RISK ASSESS'T (C)	X (L)	RISK MEASURE	RECOMMEND. CONTROLS	FOLLOW UP (BY WHOM, BY WHEN)

Risk assessment undertaken by

Date

Actions authorised by (supervisor, Head of Department, safety officer)

Date

City/Town of _____
Annual Risk Management Action Plan
Program Year _____

1. Using data from your **Frequency and Severity Trending Worksheet**, identify the 5 most frequently occurring and 5 most severe types of general liability claims occurring for the last 5 years, i.e. 7/1/00 to 7/1/05. Create additional justifiable risk exposure action plans as needed.

Top 5 GL claims by frequency	Top 5 GL claim types by cost	Top 5 priorities to address based on cost and frequency
1.	**1.**	**1.**
2.	**2.**	**2.**
3.	**3.**	**3.**
4	**4.**	**4.**
5.	**5.**	**5.**
Additional Risk Exposures		

2. **Establish action plan** for each of the top 5 priority risk exposures. Include measurable action items, and define who is accountable or responsible, and establish target dates for update or completion.

Top 5 priorities to address based on cost and frequency	Action needed to reduce or eliminate exposure and/or related costs	Person responsible	Target date for update or completion
1.			
2.			
3.			
4.			
5.			
Additional Risk Exposures			

Sample Objectives of Risk Management

It shall be the City or Town's policy to handle risks in the following manner (except when extenuating circumstances dictate otherwise):

1. **Avoid**
   All accidental losses which occur with a high frequency and a high severity shall be avoided.

2. **Transfer**
   The City or Town shall transfer to others the responsibility for all risks of loss in all its contractual relationships. The City or Town shall require all contractors to provide a Certificate of Insurance and an endorsement specifically naming the City or Town as "additional insured." The City or Town shall include "hold harmless" clauses in all contracts.

3. **Self Insure**
   The City or Town shall insure itself against high frequency and low severity losses when such losses will not significantly impact the City or Town's finances, or when the purchase of insurance coverage would be financially prohibitive. The City or Town shall establish this self insurance through a funded reserve system. The City or Town shall determine the annual funding contribution by accounting for losses during the previous budget cycle, present reserves, and future losses as predicted on a sound actuarial basis.

4. **Retain**
   The City or Town shall retain all accidental losses which occur with a low frequency and a low severity as a normal business expense when the City or Town can absorb such losses with no significant financial impact. Examples of this type of loss would be plate glass coverage and automobile physical damage.

5. **Purchase Insurance**
   The City or Town shall cover all accidental losses which occur with a low frequency and a high severity through the purchase of excess insurance. Though loss in this area does not occur often, such a loss could be financially devastating if not properly funded. This includes such areas as property, casualty, and fidelity losses when such losses will not significantly impact the City or Town's finances, or when the purchase of insurance coverage would be financially prohibitive. The City or Town shall establish this self-insurance through a funded reserve system. The City or Town shall determine the annual funding contribution by accounting for losses during the previous budget cycle, present reserves, and future losses as predicted on a sound actuarial basis.

Sample Employee Communiqué

Town of Hillsborough 2006-2007 Risk Management Program Goals

Introduction
By now, you have all seen Hillsborough's new risk management policy. It is important that all employees of the Town understand their roles in this policy by helping identify risk and safety issues which could result in injury, infrastructure damage, or other human and financial loss to the town. Our intent is to review our claims data and the information brought to us by you, our residents, and others periodically to identify our most significant areas of risk and develop goals to address them. To make this a manageable, focused process, we have begun with five significant areas of risk

Significant Risk Exposures
1. Every organization which operates vehicles, pubic or private, has a substantial risk of human and vehicle loss. Vehicle Accidents are the number one cause of workplace death in the United States and a significant source of injury and death for non-employees. For this reason strengthening our vehicle operations risk control program is a big priority.

2. Serious accidents have occurred involving our parking strips due to tree root or other damage. So we have identified walkway and urban forest management as two other areas of risk on which to set our goals.

3. We have also decided, based on the potential risk, to strengthen our practices around contractor selection. Though contractor-related issues haven't been a major source of accidents or claims for us, we contract many of our operations but remain responsible for who we select and how we manage our projects.

4. Other areas in which we could benefit from implementing some common best practices in the short run include road maintenance and police documentation

5. Historically, The Town of Hillsborough has had an informal risk management organization to address identify and mitigate risk to the Town. Formalizing more of our programs and institutionalizing our already effective processes so that they are sustainable by future staff continue to be a goal.

Attached are summaries of our recent efforts to implement our goals and address the risks discussed above.

This is neither an exhaustive list of risks nor goals to address them. We would welcome your ideas and suggestion for addressing these risks or others you feel present a serious exposure to the City's people and financial wellbeing. Thank you for helping us achieve our goals.

_____
Signature

2005-2007 Goals

Hillsborough's 2005 to 2007 risk management goals were developed based on actual claims filed against the Town over the years 1998 to 2003 and areas that we know present substantial risk for all cities. Work has already begun to achieve our goals.

Risk Management Structure and Organization

- City council adopted a formal risk management policy in April of this year
- We have enhanced the scope of our Safety Committee to include non-employee safety and risk.
- Our IIPP has been updated and expanded to address non-employee areas of safety where appropriate.

Future goals include:

- Fully implementing a process whereby significant new programs or acquisitions undergo a risk review and analysis as part of the Bi-annual budget process.
- Take advantage of ABAG grants which provide for risk management training on a variety of topics.

Vehicle Risk Control and Management

- Implement commonly accepted best practices for the selection of drivers and use/operation of both Town-owned and personal vehicle used on Town business.
- Enroll 100% of our Town's employees who drive, in any capacity, on Town business in the California Employer Notification Program (PULL).

Walkway/Parking Strip and Road Management

We have a long term goal of implementing a comprehensive system of controls including inspection, maintenance, improving the property owner notification program, and ultimately sharing responsibility appropriately with our property owners. This will include taking advantage of available grants to implement tree programs and repair walkways.

Contractor Selection and Management

Martha and Dave attended a workshop, "3rd party Employer Liability," and are implementing many of the risk controls recommended to ensure that we are protected from potential liability by the activities of our contractors.

Police Operations

Police liability has proven very expensive for many of our local cities. This results frequently when policies in place do not reflect the most current legal environment's court decisions. While our department has always tried to maintain its general orders in line with the legal and cultural climate, to ensure we are always up to date, we have subscribed to a legal liability subscription service to provide timely information and policy recommendation updates. This subscription was paid for by ABAG PLAN as part of a grant program to assist cities in their risk management programs.

Sample Leading Indicators

	Sample Leading Indicators – Senior Managers	Yes	No	Maybe	Comments
1	Routinely observe safety practices.				
2	Attend two scheduled safety or risk management meetings per year.				
3	Chair at least one safety or risk management meeting per year.				
4	Add safety as a line item to staff meeting agendas.				
5	Coach employees on safe behavior.				
6	Make commitment to reduce annual injuries/ illnesses in your respective departments by a predetermined and agreed upon percentage.				
7	Know what your department's workers' compensation loss experience is and the impact it has on employees, services, and costs.				
8	Know who is injured, ill, and out on temporary disability.				
9	Others (list):				

	Sample Leading Indicators - Supervisors	Yes	No	Maybe	Comments
1	Number of safety training programs and documented safety meetings completed.				
2	Number of accident investigations completed.				
3	Number of safety suggestions received and acted on.				
4	Number of equipment preventive maintenance inspections completed.				
5	Number of safety and health self inspections completed.				
6	Others (list):				

	Sample Leading Indicators - Employees	Yes	No	Maybe	Comments
1	Attend trainings and satisfactorily complete them.				
2	Wear personal protective equipment.				
3	Follow manual material handling and ergonomic procedures.				
4	Report all accidents/injuries immediately.				
5	Cooperate with treatment plan, if injured.				
6	Others (list):				

	Sample Leading Indicators - Liability	Yes	No	Maybe	Comments
1.	Risk management committee meetings have: • Good attendance • Appropriate frequency • Documentation (minutes) • Risk exposure-focused activity				
2.	Risk management action plans reflect loss experience and/or significant exposures				
3.	Sidewalk Inspection, maintenance and marking program is in place				
4.	Facilities and infrastructure inspections are documented and there is evidence of follow up				
5.	Appropriate employees and volunteers are trained in hazard identification and reporting.				
	Others (list):				

Sample Lagging Indicators

These measures provide additional means to set benchmarks and goals and measure overall program performance. These are optional and not part of the ABAG minimum performance measures.

Indicator	Benchmark	Current
Workers' compensation experience modifier		
Vehicle accident frequency (number of vehicle accidents per 1,000 miles driven)		
Vehicle accident severity (cost of vehicle accidents per 1,000 miles driven)		
Road hazard frequency (number of road hazard claims per 100 miles of road)		
Road hazard severity (cost of road hazard claims per 100 miles of road)		
Sidewalk claims frequency (number of pedestrian falls per 100 linear feet of sidewalk)		
Sidewalk claims severity (cost of pedestrian falls per 100 linear feet of sidewalk)		
Sewer claims frequency (number of sewer claims per connection)		
Sewer claims severity (cost of sewer claims per connection)		
Cal/OSHA recordable injury rate (number of recordable injuries per 2,000 worker hours)		
CalOSHA lost day rate (number of days lost per 2,000 worker hours)		
Percentage of workers' compensation cases returned to modified or full duty within 3-5 work days		