



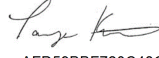
State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety
Effective October 23, 2024

AKOSH Program Directive No. 24-10

Date: October 23, 2024

To: All AKOSH Staff

From: Tanya Keith, Director Of Labor Standards And Safety

DocuSigned by:

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Subject: Fatality Inspection Procedures To Fallen Worker's Family

This Program Directive, PD 24-10, is acknowledgement that Alaska Department of Labor and Workforce Development, Division of Labor Standards and Safety adopts and will implement OSHA's CPL 02-00-171, Communicating OSHA Fatality Inspection Procedures to a Fallen Worker's Family (attached without appendices).

This instruction establishes agency procedures for communicating with the next of kin of a fallen worker, and enforcement of the Compliance Directive for Communicating OSHA Fatality Inspection Procedures to a Fallen Worker's Family (CPL 02-00-171).

This instruction is effective immediately. Please ensure that all members of your staff receive a copy of this program directive and understand how to implement it.

cc:

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OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-00-171

SUBJECT: Communicating OSHA Fatality Inspection Procedures to a Fallen Worker's Family

DIRECTORATE: Office of Communications

SIGNATURE DATE: August 2, 2024

EFFECTIVE DATE: August 26, 2024

ABSTRACT

Purpose: This Instruction provides guidance to ensure OSHA communicates its fatality inspection procedures to the fallen worker's family and facilitates the exchange of information throughout the entire inspection process and settlement or final order of any citation(s) issued.

Scope: This Instruction applies OSHA-wide.

References: See paragraph III.

Cancellations: CPL-02-00-166, Communicating OSHA Fatality Inspection Procedures to a Victim's Family, July 7, 2021.

State Impact: Notice of intent required and adoption encouraged; see Paragraph V.

Action Offices: National, Regional, Area, State Plan, and Consultation Offices.

Originating Office: Office of Communications.

Contact: Office of Communications
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Washington, D.C. 20210
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By and Under the Authority of

Douglas L. Parker
Assistant Secretary of Labor

Executive Summary

This Instruction outlines OSHA's commitment to communicating with a fallen worker's family, or a designated representative, throughout the fatality inspection process. This initiative will keep the family informed of the status throughout the inspection and any litigation, settlement, and final order of any citation(s) issued.

Significant Changes

- Updates to Definitions, including new terms National Family Liaison and OSHA Representative, and updates to the definition of Next of Kin.
- Ways to identify and general order of the Next of Kin.
- The number of phases of interaction and guidance on how to determine the Next of Kin.
- The initial communication order.
- The Follow-Up Communications.
- The Post-Inspection Communications.
- Final Order/Closing Communication phase added to the interaction and communication order with Next of Kin.
- Communication with the National Family Liaison.
- Updated Appendix A: Template-National Condolence Letter.
- Updated Appendix B: Template-Area Director's Condolence Letter (follow-up from call).
- Appendix C: Template-Area Director's Condolence Letter (no prior call).
- Appendix D: Template-National Condolence Letter (owner/co-owner is Next of Kin).
- Appendix E: Template-Area Director's Condolence Letter (fallen worker passed away due to natural causes or taking his/her own life-prior communication).
- Appendix F: Template-Area Director's Condolence Letter (out of jurisdiction-prior communication).
- Appendix G: Template-Area Director's Inspection-No Proposed Citation.
- Appendix H: Template-Area Director's Inspection-Proposed Citation(s).
- Appendix I: Template-Area Director's Contest Letter.
- Appendix J: Template-Area Office's Next of Kin Closure Letter.
- Appendix K: Guided Checklist for File.
- Appendix L: OSHA's Basic Fatality Inspection Communication Process.

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I. Purpose.

This Instruction provides guidance to ensure OSHA communicates its fatality inspection procedures to the fallen worker’s family and facilitates the exchange of information throughout the entire inspection process and settlement or final order of any citation(s) issued.

II. Scope.

This applies OSHA-wide.

III. References.

- A. [CPL 02-00-064](#), Implementation of a Construction Fatality Information Dissemination System, June 5, 1985.
- B. [CPL 02-00-164](#), Field Operations Manual (FOM), April 14, 2020.
- C. [TED 01-00-019](#), Mandatory Training Program for OSHA Compliance Personnel.

IV. Cancellations.

[CPL-02-00-166](#), Communicating OSHA Fatality Inspection Procedures to a Victim’s Family, July 7, 2021.

V. Action Offices.

- A. Responsible Office, (The office(s) that have the responsibility for the functions covered by this directive.)
 - Office of Communications (OOC).
- B. Action Office, (Which offices are affected by this directive and are expected to take action.)
 - All OSHA Regional and Area Offices.
- C. Information Offices, (The offices that need to be notified of the issuance of the directive but are not directly affected.)
 - OSHA National Offices and State Plan States.

VI. Federal Program Change.

Federal Program Change, Notice of Intent Required, Adoption Encouraged. This Instruction describes a federal program change which provides guidance and a four-phased approach for communicating with family members of fallen workers of workplace incidents throughout the investigation of the incident and settlement process or final order of any citation(s) issued. State Plans are strongly encouraged, but not required, to adopt this Instruction and should utilize it in an “at least as effective” manner to communicate with the fallen worker’s family members. Within 60 days of

the effective date of this directive, a State Plan must submit a notice of intent indicating whether they already have similar policies and procedures in place, intend to adopt new policies and procedures, or do not intend to adopt this instruction. If a State Plan does not adopt at first, but at some later point decides to adopt this instruction or an at least as effective version of this instruction, the State Plan must also provide the date of adoption and identify differences, if any, between their policy and OSHA's. OSHA will provide summary information on the State Plan responses to this instruction on its [website](#).

VII. Background.

OSHA places a high priority on fatality inspections, which demand a high degree of sensitivity and investigative accuracy. Historically, OSHA has communicated with surviving family members both to express sympathy, to gather information about the deceased, and to explain OSHA's role and process. This instruction guides the communication with Next of Kin to ensure they are treated with the utmost respect.

VIII. Significant Changes.

[See page ii, Executive Summary and Significant Changes for complete list.](#)

IX. Definitions.

- A. Fatality. A worker death resulting from a work-related incident or exposure; in general, from an incident or an illness caused by or related to a workplace hazard.
- B. National Family Liaison. The designated representative in the Office of Communications who provides guidance and assistance to OSHA offices on procedures related to communications with the Next of Kin and/or family members of the fallen worker.
- C. OSHA Representative. Area Director/Assistant Area Director or other representative designated by the Area Office.
- D. Next of Kin. For OSHA purposes, a fallen worker's Next of Kin may include:
- Closest living relative(s),
 - Other family member(s) or representative(s) designated by the closet living relative(s),
 - Individual(s) listed as the emergency contact(s) on the fallen worker's employment records, or
 - Other person(s) identified by the employer if no emergency contact is specified in employee records, or if records do not exist.

X. Identifying the Next of Kin.

Care must be taken to identify the fallen worker's Next of Kin early in the inspection process. Generally, a worker's personnel file lists the worker's Next of Kin; however, there are many reasons a worker's listed Next of Kin may change during their employment. And, in some cases, a fallen worker's current Next of Kin may not be listed on the fallen worker's personnel file.

When possible, confirm Next of Kin using the fallen worker's obituary. Other resources that may be consulted to identify the fallen worker's Next of Kin include:

- Employer (ex. personnel file, interviews),
- Co-workers,
- First Responders (Police, Fire Departments, Emergency Medical Services, and/or Medical Examiner),
- Funeral Home Representative,
- Consulates (if worker was a foreign national),
- Friends or Family members, and/or
- Community members.

The fall worker's Next of Kin should be determined on a case-by-case basis and with the understanding that there are many unique family settings. If the Area Office has difficulty in determining the Next of Kin, please use the following guide to identify the Next of Kin.

If there are any questions, please contact the National Family Liaison.

Guidance to Determine Next of Kin

The table below provides general guidance to assist Area Offices when attempting to identify the fallen worker's Next of Kin. Typically, the Next of Kin will be determined based on the fallen worker's age and marital/relationship status, among other factors. For instance, if the fallen worker was married, the Next of Kin will most likely be the fallen worker's spouse. If the worker was not married or was separated from their spouse, the Next of Kin will most likely be a significant other. In the event the spouse/significant other is unavailable, the Area Office would contact the fallen worker's next closest relative (i.e., children, parents/guardians, siblings, grandparents, aunts/uncles, nieces/nephews, cousins, etc.). If you encounter a unique family dynamic, use your best discretion to determine Next of Kin, or contact the National Family Liaison for guidance.

If fallen worker is:	Contact the:
Married or in long-term relationship	Spouse or Significant Other
Single (w/no children or children under 18 or the base legal age in your state)	Parent(s)/Guardian or Significant Other
Single (w/children 18 years of age or older or the base legal age in your state)	Child (Biological or adopted); Parent(s)/Guardian; and/or Siblings; or Significant Other
Under 18 (parents married or divorced)	Parent(s)/Guardian;
Single (parents with medical conditions in which it is more appropriate to contact the adult children, siblings or significant others.)	Adult Child (Biological or adopted); Sibling; or Significant Other
Single (without parents)	Adult Child (Biological or adopted); Sibling(s); or Significant Other

If the Next of Kin are married parents, the letter should be addressed to both parents. If the Next of Kin are divorced parents, then a condolence letter should be sent to each individual parent. Below the signature line add, "Please be advised this letter was also sent to NAME OF PARENT/GUARDIAN." Do not include their address.

Additionally, the OSHA Representative should ensure that all procedures are followed, per [CPL 02-00-164, FOM, Chapter 11, Section G, Families of Victims](#).

XI. Training

OSHA compliance officers attend OSHA Training Institute courses relevant to fatality inspections. OSHA personnel involved in fatality inspections and in communication with the Next of Kin must complete training in accordance with [TED 01-00-019](#), Mandatory Training Program for OSHA Compliance Personnel, and receive on-the-job field training under the guidance of a supervisor and/or an experienced compliance officer.

Additional training is recommended and available through the National Family Liaison that will cover the directive and direction on how to effectively communicate with families.

XII. Communication with the Next of Kin

OSHA places a high priority on communicating with Next of Kin after a workplace fatality. Care must be taken to ensure sensitivity and tact are exercised during all communications. Interactions with Next of Kin can typically be accomplished by using a four-phase approach which includes:

- A. Initial Communication,
- B. Follow-up Communications (throughout the inspection),
- C. Post-inspection Communications, and
- D. Closing Communication: No Citations/Final Order.

The communication phases will help OSHA receive the necessary information for the inspection.

It will also keep the Next of Kin informed during each phase of the investigation and Occupational Safety and Health Review Commission proceedings (if any) until the case is either closed or a final order of the Commission is issued.

A. Initial Communication (National and Area Offices)

It is important that OSHA contacts the Next of Kin early in the inspection process. This gives the OSHA Representative and National Family Liaison the opportunity to communicate that the incident is being investigated and establish a trusting and working relationship with the Next of Kin.

i. Confirmation of Next of Kin:

Within three business days of becoming aware of the fatality, receiving notification of the fatality, or the opening date of inspection, the Area Office should make every effort to confirm the Next of Kin's name and contact information (address, phone number and/or email).

NOTE: If the Area Office is unable to confirm the Next of Kin and/or their contact information, contact the National Family Liaison for assistance. Document all contact or attempts to contact the Next of Kin in the Case Diary in OIS.

ii. Notify National Family Liaison:

After confirming Next of Kin's contact information, the Area Office notifies the National Family Liaison via email (zzOSHA-NOK@dol.gov) of the incident and (if known) provide the following information to facilitate preparation of the national condolence letter:

- a. Name of fallen worker,
- b. A brief detailed explanation of the events leading to the fatality (similar to the investigation summary in the OSHA Information System (OIS)),
- c. Name of the company,
- d. Inspection number,
- e. First and last name of Next of Kin,
- f. Next of Kin's mailing address,
- g. Email for the Next of Kin (optional),
- h. Relation between Next of Kin and fallen worker,
- i. Preferred language of Next of Kin,

- j. Family's communication preference (e.g. U.S. Mail versus email), and
- k. Area Director's name, email address and office address, phone number.

NOTE: Complete all fields in OIS to assist the National Family Liaison in finalizing the national condolence letter. Remember to use sensitivity when entering descriptive information in public-facing fields. National Condolence Letter:

Within three business days of receipt of the email from the Area Office, the National Family Liaison will send a condolence letter using the family's preferred communication method. The letter will introduce the Area Director and Area Office conducting the inspection. (See Appendix A).

A copy of the national condolence letter will be emailed to the Area Office OSHA Representative for inclusion in case file.

NOTE: If the initial communication cannot be made by the National Family Liaison, an email will be sent to the Area Office explaining the rationale. The email shall be added to the Case Diary in OIS.

iii. Area Office-Initial Communication

Call from Area Office:

If the Area Office has not heard from the Next of Kin (within 14 business days) of OSHA's awareness of the fatality, the OSHA Representative should contact the Next of Kin via telephone.

During the Area Office's initial communication (within 14 business days) with the Next of Kin, the OSHA Representative should:

- a. Introduce themselves,
- b. Express condolences,
- c. Indicate that their Area Office is investigating the incident or conducting an inspection,
- d. Provide contact name and number for the Area Office, and
- e. Inform the Next of Kin that at any time during the inspection process, they may contact the Area Office to inquire about the status of the case or ask questions.

The OSHA Representative should explain the following to the Next of Kin; however, they should use discretion regarding whether to provide it during the initial communication or subsequent follow-up communication.

- How OSHA's fatality investigation process works.
- OSHA's role in the inspection process (i.e., to inspect the worksite(s) where fatalities have occurred to determine whether a violation of the OSH Act or OSHA safety and health standards took place and what effect the alleged violation(s) had on the incident).

- The inspection process may take up to six months to complete.
- OSHA does not issue citations or penalties solely because there was a workplace fatality.
- Fatality inspections are often comprehensive in nature, but at times are limited to safety and health hazards that may be associated with the fatality.
- If OSHA finds that the employer violated safety and health standards, the agency may issue citation(s) with proposed monetary penalty(ies) to the employer.
- OSHA should also explain the roles of the following:

Law Enforcement

First responders such as local police, paramedics, and fire personnel generally arrive at the scene within minutes of the event. If local law enforcement determines that no criminal laws were implicated, they will release jurisdiction of the site to OSHA. Law enforcement and OSHA inspections are conducted independently. OSHA will determine whether any workplace health and safety laws were violated, while law enforcement evaluates whether a crime has been committed.

Medical Examiner and/or Coroner

Coroners identify possible casual factors related to some workplace fatalities. The coroner's report is also independent of OSHA's inspection. In some cases, if available, OSHA will obtain information from the coroner as part of the investigation.

NOTE: If it is not the appropriate time, the OSHA Representative should ask whether there might be a better time to talk and provide the Next of Kin with their contact information, while briefly explaining the nature of future communication with the agency.

If the fallen worker's Next of Kin declines to speak with OSHA and/or has appointed another individual/family member or legal representative (attorney) as point of contact on behalf of their family, their decision shall be documented in the case diary in OIS.

Any and all messages (voicemail, emails, etc.) left for the Next of Kin should be general – (i.e., OSHA Representative should introduce themselves and simply request that the person call the OSHA Representative back and/or informing them when to expect a return call). Avoid making declarative statements regarding what caused or contributed to the fatality or whether citations should be issued.

Written Communication - Area Office

If the OSHA Representative from the Area Office makes contact with the Next of Kin via telephone, then the Area Office information/condolence letter (Appendix B) will be sent via U.S. mail within five business days after contact with the Next of Kin, as per [CPL 02-00-164, FOM, Chapter 11, Section G, Families of Victims](#).

If the OSHA Representative from the Area Office is not able to connect with the Next of Kin via telephone after multiple attempts, but has their mailing address, then the Area Office information/condolence letter (Appendix C) should be sent to the Next of Kin within 16 business days of OSHA's awareness of the fatality via U.S. mail.

Out of respect for the Next of Kin, all condolence letters must be physically signed and not electronically signed.

If for any reason the Area Office condolence letter was not sent to the Next of Kin, explain the rationale in the case diary in OIS. Copies of all written communication with the Next of Kin, including the Area Office and the national condolence letter, should be maintained in the case "Documents" in OIS.

NOTE: In some circumstances, it may not be appropriate to follow the above procedures. If, for example, the fallen worker's Next of Kin is also the owner/co-owner of company, then only the National Family Liaison's condolence letter should be sent (Appendix D).

The National Family Liaison will modify the national condolence letter based on any special circumstances. A template (Appendix D) has been created for guidance purposes.

B. Follow-Up Communications

Follow-up communications are vital to the exchange of information. These communications allow OSHA to give updates on the status of the inspection and provide Next of Kin with an opportunity to ask questions. OSHA must not divulge any privileged information, such as the names of potential witnesses, during these discussions.

OSHA's commitment to exchange of information with the Next of Kin either during the initial communication or during the following-up communication should be as follows, if appropriate:

1. Communication with the Next of Kin should continue on a periodic basis, at least once every 30 days or at an interval agreed to between the OSHA Representative and the Next of Kin, until the inspection is completed, and the findings have been communicated.
2. The Area Office may determine when it is a good time to reiterate (if explained previously) or explain the following to the Next of Kin in either the initial or follow-up communication:

- OSHA inspects the worksite(s) where fatalities have occurred to determine whether a violation of OSHA safety and health standards has happened and what effect the alleged violation had on the fatality incident.
 - The inspection may take up to six months to complete.
 - Fatality inspections are often comprehensive in nature, but at times are limited to safety and health hazards that may be associated with the fatality.
 - If OSHA finds that the employer violated safety and health standards, the agency may issue citation(s) with proposed monetary penalty(ies) to the employer.
 - OSHA is prohibited from releasing certain information as a result of possible litigation. The releasable portion of the case file will not be made available to the Next of Kin until the inspection becomes a final order.
3. At any time during the inspection, the Next of Kin may contact the Area Office to inquire about the status of the case or to ask questions. If the Next of Kin contacts the Area Office, it is important that every effort is made to return their phone call or email correspondence within two business days.
 4. If the Next of Kin declines to participate in the exchange of information, initially or during the inspection, the OSHA Representative must inform the Next of Kin that they or another family member may inquire about the status of the case at a later date. The OSHA Representative should provide their name and contact information to the Next of Kin. The OSHA Representative will fully document if the Next of Kin declines to participate in the OIS case diary and notify the National Family Liaison by email.

NOTE: If the Area Office communicated with the Next of Kin and subsequently determined that the incident was due to self-harm, drug overdose, or natural causes, they should customize and send the template notification letter in Appendix E to inform the Next of Kin.

If the Area Office communicated with the Next of Kin and subsequently determined that the incident was not covered by OSHA, they should customize and send the template letter in Appendix F to inform the Next of Kin.

All communications (verbal and written) with the Next of Kin should be documented in the case diary in OIS.

C. Post-Inspection Communications

When the inspection is completed, OSHA will either close the case without citations and penalties or issue citations and proposed penalties. If citations are not issued, see Section F. If citations and penalties are being issued, see below.

After confirming that the employer has received the citation(s), an OSHA Representative from the Area Office will promptly contact the Next of Kin via telephone to explain:

1. The inspection findings, including the violations identified and their classifications; the associated citations; the penalties proposed, and the employer's possible next steps:
 - Accepting the citations, paying the proposed penalties, and/or abating the hazards identified.
 - Requesting an informal conference to discuss the citations and penalties proposed with the Area Office (Penalty adjustments and abatement requirements will be discussed.)
 - Contesting all or part of the citations. In this situation, the case is referred to the Occupational Safety and Health Review Commission (OSHRC) for review.

NOTE: If necessary, the OSHA Representative from the Area Office shall reiterate the contents of Section B, Part 2 and additionally discuss the below contents:

- The gravity of the violation is the primary consideration in determining penalty amounts. The gravity-based penalty for each violation is determined by combining the severity of the injury and the probability of its occurrence.
 - Penalty adjustment factors will vary based on size, inspection history, and good faith of the employer.
 - OSHA may, as appropriate, make a criminal referral to local, state, or federal law enforcement authorities. In situations where the case is contested or a criminal referral is under consideration or has been made, the case file will not be made available until after litigation is completed.
2. Address any questions the family may have regarding the findings/inspection, etc. OSHA must not divulge any privileged information (such as the names of potential witnesses) during these discussions.

3. Once the case is settled, the Next of Kin may request a copy of the case file via the Freedom of Information Act (FOIA) as per [CPL 02-00-164, FOM Chapter 16, Disclosure Under the Freedom of Information Act](#). If the case is contested or if OSHA makes a criminal referral, the case file will not be made available until after these proceedings have concluded.
4. Ask the Next of Kin if they would like to receive any future correspondence from OSHA to keep them updated on the status of any abatement/appeal/court information, etc. Communication with the Next of Kin should continue at a timeframe determined between the Next of Kin and OSHA Representative from the Area Office. The OSHA Representative will fully document the Next of Kin's decision in the case diary in OIS and notify the National Family Liaison of this request by email.
5. Within three business days after the verbal post-inspection communication with the Next of Kin, the Area Office should send a follow-up letter confirming the verbal conversation and provide a copy of the citation(s). The template letter (Appendix H) should be modified as necessary.
6. If OSHA plans to issue a press release, the National Family Liaison will make every attempt to notify the Next of Kin by telephone or email before its issuance. The National Family Liaison may also provide a copy of the press release to the family once it has been issued.
7. Communications between OSHA and the Next of Kin will continue until the case becomes a final order of the OSHRC and the case is closed.
8. The National Family Liaison will collaborate with the Area Office about maintaining contact with the Next of Kin through the period of litigation during a time agreed to between the OSHA Representative and the Next of Kin.
9. If the Next of Kin has shared that they would like to receive communication via telephone, document this preference in the case file activity diary in OIS.

NOTE: All communications with the Next of Kin will be documented in the case diary in OIS.

D. Communication with Next of Kin When the Employer Contests Citations/Penalties

Upon receiving notification of the employer's contest, the Area Office will notify the Next of Kin by sending the modified template letter (Appendix I).

E. Closing Communication with Next of Kin in Contested Cases

Upon receipt of a final order the Area Office will send a letter (Appendix J, modified as necessary) including the following information:

- A copy of the ALJ/Commission decision or (when applicable) a copy of the signed formal settlement agreement, and an explanation of the settlement and outcomes, including (when applicable) information associated with the settlement agreement (i.e., amended abatement dates, reclassification of violations, and the modification or withdrawal of a penalty, a citation, or a citation item).
- Requesting information under the Freedom of Information Act (FOIA), as it pertains to OSHA's inspection.

NOTE: All communications with the Next of Kin will be documented in the case diary in OIS.

F. Closing Communication When No Citations Are Issued

If citations are not issued, the OSHA Representative from the Area Office should contact the Next of Kin via telephone immediately after confirmation that the employer has been notified and explain why citations were not issued.

Additionally, the OSHA Representative should be prepared to discuss and explain the following:

- OSHA does not issue citations solely because there was a workplace fatality.
- The workplace inspection found no alleged violation(s) of safety and health standards and, as a result, no citations were issued to the employer.

The OSHA Representative should make the Next of Kin aware of the Freedom of Information Act (FOIA), as it pertains to OSHA's inspection file.

NOTE: Within three business days after the verbal post-inspection communication with the Next of Kin, the Area Office should send a follow-up letter confirming the verbal conversation. The template letter (Appendix G) should be modified as necessary.

G. Communication with the National Family Liaison

If a Next of Kin contacts the National Family Liaison with specific questions regarding the inspection, the National Family Liaison will call/email the Area Director within eight business hours and request that the OSHA Representative contact the Next of Kin to answer their questions.

The OSHA Representative should contact the Next of Kin within two business days and confirm via email with the National Family Liaison that the communication took place.

NOTE: All communications with the Next of Kin should be documented in the case diary in OIS.