

**SOUTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH
INFORMATIONAL MEMORANDUM
2025-01**

SUBJECT: INCORPORATING THE FAMILY OF ACCIDENT OR ILLNESS VICTIMS INTO FATALITY INVESTIGATIONS

TO: ALL SOUTH CAROLINA PERSONNEL

FROM: KRISTINA L. BAKER, DEPUTY DIRECTOR – LABOR



DATE OF ADOPTION: FEBRUARY 27, 2025

EFFECTIVE DATE: MARCH 3, 2025

PURPOSE:

This memorandum provides guidance when South Carolina OSHA personnel are involved in accident and/or fatality investigations and interacting with the surviving family member(s) of a fatal workplace accident or illness victim.

SCOPE:

This applies to ALL South Carolina OSHA personnel.

REFERENCES:

South Carolina Field Operations Manual (FOM)

CPL 02-00-171: "Communicating OSHA Fatality Inspection Procedures to a Fallen Worker's Family"

CANCELLATIONS:

OSH INFORMATION MEMORANDUM 90-X-85 (REVISED 10/16/09): "Incorporating the Family of Accident or Illness Victims into Fatality Investigations"

BACKGROUND:

South Carolina OSHA has always placed a high priority on fatality inspections with an emphasis on its importance and sensitivity. Historically, South Carolina OSHA has communicated with surviving family members both to express condolences, gather information about the deceased, and explain SCOSHA's role and the investigation process. This memorandum will provide continued guidance on the interactions with surviving family members to ensure they are treated with dignity and respect during a difficult time.

SIGNIFICANT CHANGES:

- Definitions.
- Updated Policy Guidelines
- Updated Initial Communication Letter
- New Next of Kin Communication Log
- New Fatality Investigation Fact Sheet
- New Letters –
 - Requested Update Letter - Citations
 - Requested Update Letter - No Citations (Final with File)
 - Requested Update Letter - Notice of Informal Conference
 - Requested Update Letter - Employer Contest
 - Requested Update Letter - Notice of Hearing
 - Requested Update Letter - Final Decisions (with File)
 - No Request – Case Closed (with File)

DEFINITIONS:

A. **Fatality**. An employee 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. **Division**. The South Carolina Occupational Safety and Health Administration, leadership and staff.

C. **Compliance Officer**. Any safety, health, or construction compliance officer investigating the underlying accident and/or fatality.

D. **Next of Kin**. For South Carolina OSHA purposes, the Next of Kin may include:

1. Closest living relative(s),
2. Other family member(s) or representative(s) designated by the closest living relative(s),
3. Individual(s) listed as the emergency contact(s) on the deceased employee's employment records, or
4. Other person(s) identified by the employer if no emergency contact is specified in employee records or if records do not exist.

POLICY GUIDELINES:

A. Family members of employees involved in fatal occupational-related accidents or illnesses will be contacted at an early point in the investigation and given the opportunity to provide any information that may assist the Division in its investigation.

B. As soon as practicable after initiating the investigation, the Compliance Officer shall attempt to compile a list of all of the accident victims and their current addresses, along with the names and addresses of the individual(s) listed in the employer's records as next-of-kin or person(s) to contact in the event of an emergency.

C. If the next-of-kin or the emergency contact person cannot be determined from employer records, the Compliance Officer shall make a reasonable effort to obtain the information from other sources, including but not limited to the following:

1. The Employer (i.e., personnel file, management interviews),
2. Co-workers,
3. First Responder reports (i.e., police reports, coroner's reports, etc.)
4. Funeral Home Representative(s),
5. Death certificates,
6. Obituaries, and/or
7. Family, Friends, or Community members.

This is not an exhaustive list, and determination of the next-of-kin will be on a case-by-case basis using the information gathered with the given circumstances of each case.

D. The Compliance Officer shall submit the list of victims and their next-of-kin to the Division's Executive Assistant who will inform the agency's Director and Division's Deputy Director, then generate and send the "Initial Communication Letter" and "Fatality Investigation Factsheet" to the identified next-of-kin within seven (7) working days of the identification being made, and maintain a log of the same. (Appendix A: "Next-of Kin Communication Log") A copy of the letter will be placed in the case file. A template letter can be found in the Appendix and will include the following information (Appendix B: "Initial Communication Letter" and Appendix C: "Fatality Investigation Factsheet"):

1. Condolences for the loss,
2. SCOSHA's mission,
3. Investigative process including estimated timeframe,
4. Access to information following the closing of the case, and
5. Deputy Director and Division office contact information.

E. If the next-of-kin cannot be located or the letter to the next-of-kin cannot be delivered, the following should be done:

1. If the CSHO cannot determine the next-of-kin, they should complete a Memorandum of Record to include the attempts made to obtain the information including applicable dates and sources contacted.
2. If the letter to the next-of-kin cannot be delivered, the Division's Executive Assistant will notate the log and place the returned letter in the case file.

F. Any pertinent information obtained from the next-of-kin by the Deputy Director and/or Division Executive Assistant will be provided to the Compliance Manager and Compliance Officer conducting the investigation. The Compliance Officer is encouraged to reach out to the next-of-kin when doing so will assist in the investigation. All communication should be both respectful and thoughtful, giving full consideration to the loss experienced. Furthermore, all SC OSHA staff should be mindful of the following when communicating with the next-of-kin:

1. Do not mislead them about the timing of the investigation,
2. Do not mislead them about the speed with which they can obtain a copy of the disclosable information before closing the case file,
3. The employer's rights must be protected,

4. Witness identity must be protected,
5. No factual information or findings including the identity of witnesses should be released before the completion of the investigation and subsequent litigation.
6. Refer all requests for such information to the Labor Legal Division.

G. If the next-of-kin requests to be kept up-to-date (verbally or in writing) on the status of the investigation, the Deputy Director shall ensure the following is provided in accordance with Agency policy and FOIA guidelines through the Labor Legal Division:

1. Copies of citations or decision not to issue a citation
 - a. A letter notifying the next-of-kin with a copy of the citations and narrative or copy of the file (if applicable) will be sent by the FOIA Administrative Coordinator within 7 working days of the employer being notified. (Appendix D: "Requested Update Letter - Citations or Appendix E: "Requested Update Letter - No Citations")
2. Notice of informal conferences
 - a. A letter notifying the next-of-kin of the request for an informal conference will be sent by the Informal Conference Administrative Coordinator within 7 working days of the employer's request. (Appendix F: "Requested Update Letter - Informal Conference")
3. Employer contest of citations
 - a. A letter notifying the next-of-kin of the employer's contest will be sent by the Labor Legal Division's Contested Cases Paralegal within 7 working days of the contest. (Appendix G: "Requested Update Letter - Contest")
4. The Notice of Hearing
 - a. A letter notifying the next-of-kin of the notice of hearing with a copy of the notice will be sent by the Labor Legal Division's Contested Cases Paralegal within 7 working days of receipt of the notice. (Appendix H: "Requested Update Letter - Notice of Hearing")
5. Copies of final decisions
 - a. A letter notifying the next-of-kin of the final decision in the case with a copy of the file will be sent by the FOIA Administrative Coordinator within 30 days of the full resolution and closure of the case. (Appendix I: "Requested Update Letter - Final Decision plus File")

H. If the next-of-kin does not request to be kept up to date on the investigation, the Deputy Director shall ensure that a copy of the file is provided in accordance with Agency policy and FOIA guidelines through the Labor Legal Division within 30 days of the full resolution and closure of the case. (Appendix J: "No Request - Case Closed")

TRAINING:

- A. All staff will be informed of the updated memo and process on the date of its adoption.
- B. Training on this updated memo and process will be provided initially at the monthly Compliance Meeting immediately following the effective date of the policy with subsequent annual training to take place during Legal Aspects.

EFFECTIVE DATE:

This memorandum becomes effective March 3, 2025, and shall remain in effect until canceled or superseded.

APPENDIX

APPENDIX A: "NEXT-OF-KIN COMMUNICATION LOG"

Employer Name	Employee Name	Date of Accident	Next of Kin (relationship)	Attorney Represented (Y/N)?	Attorney Name	Date NOK identified letter requested	Date initial letter mailed	Request progress updates (Y/N)	Requested Update Letter - Citations
Employer A	John Doe	1/1/2025	Jane Doe (mother)	Y - ABC Law Firm		1/5/2025	1/10/2025 on 01/14/2025	Y - sent representation letter of	Y - sent 06/10/2025
Employer B	Joan Doe	1/2/2025	James Doe (father)	N/A		1/6/2025	1/13/2025 N	N/A	
Employer C	Joe Doe	1/3/2025	Jamie Doe (mother)	N/A		1/10/2025	1/16/2025 01/31/2025	Y - telephone call to DD on	N/A

Requested		Requested		Requested	
Request Update	Update Letter -	Request Update	Update Letter -	Request Update	Not Requested -
Letter - No	Informal	Letter -	Hearings	Final Decision	Case Closed
Citations	Conference	Contest	Notice		

Y - Case resolved
in Informal on
7/20/2025; sent
08/15/2025

N/A Y - Sent
07/15/2025 N/A N/A N/A

Y - case closed
07/29/2025; sent
08/25/2025

N/A N/A N/A N/A N/A

Y - sent
07/14/2025 N/A N/A N/A N/A

APPENDIX B: "INITIAL COMMUNICATION LETTER"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

As the Deputy Director of the Department of Labor, Licensing and Regulation, and on behalf of our Director Emily Farr and Governor Henry McMaster, please accept our sincerest sympathies regarding the tragic event that resulted in the death of your loved one, (Insert name of deceased employee).

Our state-administered Office of Occupational Safety and Health (SCOSHA), is conducting an investigation of the accident. Our OSHA office initiates investigations of workplace accidents to determine:

1. Whether a violation of OSHA Safety and Health standards occurred; and/or
2. What effect the standard violation had on the occurrence of the accident.

If there was a violation, SCOSHA may issue citations and penalties against the employer, whether or not the violation contributed to the accident. If you feel that you or another family member may have information concerning this accident, please contact us.

Upon request, we will keep you informed of the progress of the investigation through copies of citations, notice of any informal conference, notice of employer contest, and any other actions taken toward the resolution of this matter. Once the investigation file is closed, the releasable portions of the file will be provided to you at no cost within 30 days of the full resolution and closure of the case.

Any questions regarding the investigation or any of the above procedures should be addressed to me at the above address or scosha.nextofkin.response@llr.sc.gov.

We have enclosed some additional information regarding these types of investigations and what to expect. Again, please accept our heartfelt condolences and let us know if we can be of any assistance to you.

Sincerely,

Kristina L. Baker
Deputy Director - Labor

Enclosure



Fatality Investigation

South Carolina OSHA has always prioritized fatality investigations, emphasizing their importance and sensitivity. Our goal is to communicate with family members in a way that acknowledges the loss and provides them with information that might assist them moving forward. This fact sheet includes some important things family members should know.

What is a Fatality Investigation?

OSHA regulations require employers to report fatalities within eight hours. The agency then investigates the circumstances of the fatality, usually on-site, to determine if violations of the OSH Act are involved.

If the agency determines that the employer has failed to follow safety and health requirements, it issues citations and civil or criminal penalties. OSHA penalties do not correspond to or reflect the value of a worker's life or the cost of an injury or illness as that is immeasurable.

However, the agency's goal is to get hazardous conditions corrected as soon as possible so that no further injuries or deaths occur and the workplace complies with all applicable safety and health standards.

How do Family Members get access to Information?

SCOSHA is committed to working with families to provide an accounting of the circumstances surrounding the deaths of workers and to doing everything possible to prevent future tragedies.

The agency contacts the worker's family to inform them of the agency's investigation. Family members may provide relevant information concerning their loved one's working conditions and death to the agency at any time.

SCOSHA cannot release full details on its inspection findings until the investigation is over, any resulting litigation is completed, and the case is closed. This process may be lengthy. However, the next-of-kin can request to be kept up-to-date throughout the investigative process. If such a request is made, to keep families apprised of developments during the investigation, SCOSHA will send them copies of citations, notice of any informal conference, notice of an employer contest, and any other actions taken to resolve the matter within a reasonable time once the document has been issued and/or event has occurred.

Once the investigation is completed, even if the next-of-kin has not requested to be kept up-to-date, applicable portions of the investigation file subject to release under the Freedom of Information Act (FOIA) will be provided to the family without charge within 30 days of the full resolution and closure of the case. No formal request under the Freedom of Information Act will be required.

For further questions about this process, to provide additional information, or to request information, send an email to scosha.nextofkin.response@llr.sc.gov.

APPENDIX D: "UPDATE LETTER - CITATIONS"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

Our office continues to extend its sincerest sympathies to you and your family as a result of the loss of your loved one (insert deceased employee name).

At your request, we are keeping you updated on the progress of the investigation. While citations have been issued in this case, the employer still has the right to an informal conference or a formal hearing. As such, the case is not yet closed and the entire file cannot be released.

In the meantime, the current releasable documents are attached: Citation and Notification of Penalty, and Inspection Information and Narrative. Once the inspection file is complete and we have fully researched and gathered documents responsive to your request, please note that only releasable information will be forwarded to you. In the event your request includes information that cannot be released, you will be notified at the time all releasable documents are forwarded to you.

Regarding the Citation and Notification of Penalty, and Inspection Information and Narrative, please be aware that Section 30-4-40(a)(1) of the 1976 Code of Laws of South Carolina as amended, exempts trade secrets from disclosure. Trade secrets are defined as "unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information." All trade secrets, if any, have been redacted.

Also, Section 30-4-40(a)(2) of the 1976 Code of Laws of South Carolina, as amended, exempts from disclosure information of a personal nature where the public disclosure thereof would constitute an unreasonable invasion of personal privacy. Therefore, information including, but not limited to, social security numbers, Federal ID numbers, home addresses, home phone numbers, and financial information has been redacted.

Furthermore, Section 30-4-40(7) of the 1976 Code of Laws of South Carolina, as amended, exempts "correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships". In addition, Section 30-4-40(15) of the 1976 Code of Laws of South Carolina, as amended, exempts "the identity, or information tending to reveal the identity, of any individual who in good faith makes a complaint or otherwise discloses information, which alleges a violation or potential violation of law or regulation, to a state

regulatory agency." As such all such information has been redacted.

Moreover, please note that Section 30-4-40(4) of the 1976 Code of Laws of South Carolina, as amended, exempts "matters specifically exempted from disclosure by statute or law." This includes but is not limited to exemptions pursuant to S.C. Title 41 Labor and Employment, Chapter 15 Occupational Safety and Health, SC Code of Regulations Chapter 71 – Department of Labor, Licensing and Regulation – Division of Labor, and/or any other applicable statute or regulation. Specifically, SC Code of Regulations 71-1102(B) provides for the exemption of disclosure of sensitive material which is defined as witness identity, witness statements, complainant identity, financial statements of employers, accident and injury records maintained by the employer (excluding medical and exposure records), consultation reports, discrimination files, correspondence and work product of legal counsel, and other information as deemed "sensitive" by the Commissioner of Labor. Sensitive material includes, but is not limited to, social security numbers, Federal ID numbers, home and email addresses, home or cellular phone numbers, next-of-kin, and financial information. All such sensitive information has been redacted.

Should you have any questions or concerns about the noted redactions, please contact our Chief Legal Counsel Deidre Laws at 803-896-4012 or Deidre.Laws@llr.sc.gov.

Sincerely,

Kristina L. Baker
Deputy Director - Labor

Enclosure

APPENDIX E: "UPDATE LETTER – NO CITATIONS"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

Our office continues to extend its sincerest sympathies to you and your family as a result of the loss of your loved one (insert deceased employee name).

At your request, we are keeping you updated on the progress of the investigation. We have completed our investigation and determined that no violation of safety and health standards occurred. Therefore, SC OSHA will not be issuing citations or proposed penalties in this case.

We understand you might have questions. As indicated in our initial letter to you dated _____, we are forwarding the releasable portions of the file to you at no cost within 30 days of the full resolution and closure of the case.

As it relates to the releasable information from this case file, please be aware that Section 30-4-40(a)(1) of the 1976 Code of Laws of South Carolina as amended, exempts trade secrets from disclosure. Trade secrets are defined as "unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information." All trade secrets, if any, have been redacted.

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Sincerely,

Kristina L. Baker
Deputy Director - Labor

Enclosure

APPENDIX F: "UPDATE LETTER – INFORMAL CONFERENCE"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

Our office continues to extend its sincerest sympathies to you and your family as a result of the loss of your loved one (insert deceased employee name).

At your request, we are keeping you updated on the progress of the investigation. Since the issuance of the citations, the employer has requested an informal conference which will be held within the next 30 days.

Sincerely,

Kristina L. Baker

Deputy Director - Labor

Enclosure

APPENDIX G: "UPDATE LETTER – CONTEST"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

Our office continues to extend its sincerest sympathies to you and your family as a result of the loss of your loved one (insert deceased employee name).

At your request, we are keeping you updated on the progress of the investigation. Since the issuance of the citations, the employer has contested the citations and requested a formal hearing. This request has been filed with the South Carolina Administrative Law Court. If a hearing is scheduled, our office will notify you. If this matter is resolved without a hearing, our office will send you a copy of the final order.

Sincerely,

Kristina L. Baker

Deputy Director - Labor

APPENDIX H: "UPDATE LETTER – NOTICE OF HEARING"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

Our office continues to extend its sincerest sympathies to you and your family as a result of the loss of your loved one (insert deceased employee name).

At your request, we are keeping you updated on the progress of the investigation. As you are aware, the employer has contested the citations and requested a formal hearing before the South Carolina Administrative Law Court. A hearing has been scheduled in this case. See the attached notice and details below:

Date:

Time:

Location:

South Carolina Administrative Law Court

Edgar A. Brown Building

1205 Pendleton Street

Suite 224

Columbia, SC 29201

Should you have any questions or concerns regarding the pending hearing, please contact our Chief Legal Counsel Deidre Laws at 803-896-4012 or Deidre.Laws@llr.sc.gov.

Sincerely,

Kristina L. Baker

Deputy Director - Labor

Enclosure

APPENDIX I: "UPDATE LETTER – FINAL DECISION PLUS FILE"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

Our office continues to extend its sincerest sympathies to you and your family as a result of the loss of your loved one (insert deceased employee name).

At your request, we are keeping you updated on the progress of the investigation. This case is now fully resolved and closed with the following result:

(Insert result)

As it relates to the releasable information from this case file, please be aware that Section 30-4-40(a)(1) of the 1976 Code of Laws of South Carolina as amended, exempts trade secrets from disclosure. Trade secrets are defined as "unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information." All trade secrets, if any, have been redacted.

Also, Section 30-4-40(a)(2) of the 1976 Code of Laws of South Carolina, as amended, exempts from disclosure information of a personal nature where the public disclosure thereof would constitute an unreasonable invasion of personal privacy. Therefore, information including, but not limited, to social security numbers, Federal ID numbers, home addresses, home phone numbers, and financial information has been redacted.

Furthermore, Section 30-4-40(7) of the 1976 Code of Laws of South Carolina, as amended, exempts "correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships". In addition, Section 30-4-40(15) of the 1976 Code of Laws of South Carolina, as amended, exempts "the identity, or information tending to reveal the identity, of any individual who in good faith makes a complaint or otherwise discloses information, which alleges a violation or potential violation of law or regulation, to a state regulatory agency." As such all such information has been redacted.

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Licensing and Regulation – Division of Labor, and/or any other applicable statute or regulation. Specifically, SC Code of Regulations 71-1102(B) provides for the exemption of disclosure of sensitive material which is defined as witness identity, witness statements, complainant identity, financial statements of employers, accident and injury records maintained by the employer (excluding medical and exposure records), consultation reports, discrimination files, correspondence and work product of legal counsel, and other information as deemed "sensitive" by the Commissioner of Labor. Sensitive material includes, but is not limited to, social security numbers, Federal ID numbers, home and email addresses, home or cellular phone numbers, next-of-kin, and financial information. All such sensitive information has been redacted.

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Sincerely,

Kristina L. Baker
Deputy Director - Labor

Enclosure

APPENDIX J: "NO REQUEST – CASE CLOSED"

DATE

Name of Next-of-Kin

Address

City, State, Zip Code

Dear (Insert Name of Next-of-Kin)

Our office continues to extend its sincerest sympathies to you and your family as a result of the loss of your loved one (insert deceased employee name).

As indicated in our initial letter to you dated _____, we are forwarding the releasable portions of the file to you at no cost within 30 days of the full resolution and closure of the case. This case is now fully resolved and closed with the following result:

(Insert result)

As it relates to the releasable information from this case file, please be aware that Section 30-4-40(a)(1) of the 1976 Code of Laws of South Carolina as amended, exempts trade secrets from disclosure. Trade secrets are defined as "unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information." All trade secrets, if any, have been redacted.

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**Kristina L. Baker
Deputy Director - Labor**

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