



# U.S. Chemical Safety and Hazard Investigation Board

**SUBJECT:** Investigations Program

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1. **PURPOSE.** To advance the mission and strategic goals of the agency, the CSB commits to completing timely and high-quality investigation products that determine root causes of incidents, and to developing recommendations with broad preventive impact. The CSB strives to conduct investigations of chemical incidents that are independent, objective, technically rigorous, and evidence-driven.

This Order establishes the responsibilities for CSB employees who manage, conduct, and assist with investigations, as well as for Board Members, who support the investigative process, review draft investigation products, and ultimately vote on the final versions.

This Order designates the CSB Protocol Team as the agency committee responsible for developing, reviewing, and periodically updating this Order and the associated internal Investigation Protocol. The Investigation Protocol contains detailed procedures and practices for CSB employees involved in investigations.<sup>1</sup>

2. **EFFECTIVE DATE.** This Order is effective upon passage by the Board.

3. **SCOPE.** This Order applies to:

- All CSB employees directly involved in conducting and assisting with incident investigations and
- The CSB Board Members (Board), where appropriate.

4. **REFERENCES.**

- Clean Air Act Amendments of 1990, 42 United States Code § 7412(r)(6);
- [40 Code of Federal Regulations \(CFR\) Parts 1600-1620](#);
- Board Order 011, Administrative Subpoenas;
- [Board Order 012, Designation of Authority and Procedures for Depositions and Other Testimony Under Oath](#);
- [Board Order 017, CSB Occupational Safety and Health Program](#);
- [Board Order 020, Notice of Inspection Authority](#);
- [Board Order 022, CSB Recommendations Program](#);
- [Board Order 047, Accident Victim and Family Communication Program](#);
- [CSB Final Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Disseminated Information](#).

5. **POLICY.** This Order sets forth the policies, guidance, roles, and responsibilities of CSB employees and Board Members at various stages of an investigation or hazard study.

The roles and responsibilities herein are defined as they relate to CSB investigations, and in all respects should be read to be consistent with the CSB enabling statute, CSB regulations, other Board

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<sup>1</sup> The Investigation Protocol is written and produced for internal use only and is exempt from release under the authority of Exemption 7(E) of the Freedom of Information Act.

Orders, and employee position descriptions.

## 6. **AUTHORITIES AND RESPONSIBILITIES.**

**Investigation Team (Team)<sup>2</sup>** – The Team is the group of investigators assigned to conduct the investigation and collaborate with the Office of Recommendations to develop recommendations. The Team also contributes to the agency’s outreach efforts to share findings and to advocate the implementation of recommendations. The Team is led by an Investigator-In-Charge (described below). Team member responsibilities will vary, depending on the type of investigation and the stage within its lifespan, and will be in accordance with each investigator’s experience level, skills, training, and professional expertise. An investigation may provide for on-the-job training and other developmental opportunities. Overall, Team members will collaborate with and support the Investigator-in-Charge in a team-based approach of “all-cause”<sup>3</sup> theory of accident causation. In doing so, the Team has the following overall responsibilities (as assigned and as appropriate):

- a. Complying with Board Order 017 health and safety requirements during deployment activities, and seeking out counsel and assistance from the IIC, the appointed FSHO,<sup>4</sup> and DASHO<sup>5</sup> for any potentially unsafe situations to ensure that any such issues are resolved before work is completed;
- b. Conducting witness interviews (voluntary) and depositions (compelled by subpoena);
- c. Initiating document and interrogatory requests and analyzing responsive documents; following up with the preparation and service of subpoenas to compel production, if required;
- d. Collaborating and working with retained subject matter experts (as needed), and managing contracts as the Contracting Officer Representative (if certified to do so);
- e. Evaluating and photo-documenting the incident scene;
- f. Taking chemical samples, collecting and securing other physical evidence, and obtaining testing of such samples and other evidence (as needed);
- g. Reviewing pertinent federal and state laws, regulations, codes, industry standards, and other good practice guidance; determining whether a company complied with such authorities; and analyzing those authorities for effectiveness or potential gaps in coverage;
- h. Developing a formal causal analysis (e.g., logic tree or AcciMap) for the investigation;
- i. Preserving or causing to be preserved all evidence obtained through site examination, interviews, and other investigative activities, as outlined above, as well as protecting, documenting, and incorporating the written evidentiary materials into the agency’s electronic records management system in a timely manner;
- j. Participating in the development and writing of an objective and technically rigorous CSB product, that contains key findings and may contain recommendations, and is in accordance with the CSB’s enabling statute, applicable federal regulations, this Order, the Investigation

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<sup>2</sup> This may also include establishment of a Hazard Study Team.

<sup>3</sup> CSB Legislative History. <http://www.csb.gov/UserFiles/file/legal/CSBLegislativeHistory.pdf>

<sup>4</sup> The FSHO, or Field Safety and Health Officer, is the Investigation Team member assigned responsibility of providing in-the-field safety and health assessments and guidance to the IIC and Team; the FSHO is designated by the IIC and approved by the DASHO. In the absence of an appointed FSHO, these duties are the responsibility of the IIC.

<sup>5</sup> The DASHO, or Designated Agency Safety and Health Official, provides agency oversight on safety and health issues, including during deployments; designated by Chairperson.

Protocol, the CSB Data Quality Guidelines, and Board Order 022;

- k. Submitting the draft product for both internal and external review, maintaining the work plan schedule, and effectively incorporating feedback into a high-quality final product;
- l. Identifying outreach and advocacy opportunities related to the investigative work with stakeholders and potential recommendations recipients.

**Investigator-In-Charge (IIC)** – The IIC is the designated lead investigator coordinating day-to-day management of an Investigation or Hazard Study Team. Traditionally, the individual serving as IIC will remain in that position throughout the investigation lifespan; however, this role may be passed to others, contingent upon investigative workload, new deployment resource demands, and other agency needs. The IIC has the added coordination, oversight, and management responsibilities above and beyond the Investigation Team to ensure successful investigation completion. These responsibilities include:

- a. Ensuring the Team’s completion of the field phase of the investigation, as described above;
- b. Keeping the Team informed on the various aspects of the investigation;
- c. Managing the safety and health of all deployed CSB personnel and ensuring compliance with Board Order 017;
- d. Leading initial meetings and discussions with the involved companies and entities as the in-person CSB point-of-contact;
- e. Notifying and involving facility employees and employee representatives in the various investigation activities when the site involved in the incident is represented by a union or a Health and Safety Committee; investigation activities can include site walk-throughs, opening meetings, equipment and material testing protocol development and observation, and the review of draft CSB products;
- f. Communicating relevant factual information about the investigation, and the investigation status, to accident victims and their families through appropriate forums (Board Order 047);
- g. Finalizing the scope of the investigation, in consultation with the Board, and preparing and executing a project work plan with defined activities, assigned responsibilities, and deliverable due dates for the investigation;
- h. Deciding on the specialized resources necessary to conduct the investigation such as subject matter experts and specialized contractors;
- i. Developing, maintaining, and managing an investigative budget (in cooperation with the Chairperson and Finance Department) to ensure effective use of agency resources both during deployment activities and throughout the investigation lifespan;
- j. Assigning or requesting additional internal resources;
- k. Signing subpoenas after coordination with the Office of the General Counsel, the Immediate Supervisor (if applicable), and Executive Director, in accordance with Board Order 011;
- l. Overseeing the development of an objective and technically rigorous CSB product(s) based on evidence obtained during the investigation that contains key findings and may contain recommendations in accordance with the CSB’s enabling statute, applicable federal regulations, this Order, the Investigation Protocol, the CSB Data Quality Guidelines, and Board Order 022;

- m. Managing and coordinating communications with other CSB departments and groups such as the Board, Office of Recommendations, Office of Congressional and Public Affairs, Office of the General Counsel, and other investigation teams regarding the investigation, written products, and advocacy work;
- n. Coordinating the logistics of any public meetings with the Office of Board Affairs and the Office of Congressional and Public Affairs;
- o. Verifying that investigation records are properly protected and retained, in accordance with the CSB Records Management Program;
- p. Throughout the investigation, serving as a principal contact between other organizations investigating the incident and the CSB;
- q. Collaborate with Board Members and the Office of Congressional and Public Affairs on draft agency statements and material released to the public.

**Immediate Supervisor (if applicable)** – Oversees the IIC when the IIC does not directly report to the Executive Director. The Immediate Supervisor provides direction, assistance, and guidance, as appropriate, in order to support the IIC in his/her leadership role. The Immediate Supervisor strives to help the IIC by removing obstacles and setting priorities. The extent to which the Immediate Supervisor is involved in these activities may vary as the IIC grows into his/her role. The Immediate Supervisor is also responsible for training and mentoring future and developmental IICs. As such, the Immediate Supervisor is responsible for:

- a. Developing (in concert with the IIC) the overall scope, work plan, and recommendations for the investigation, and ensuring project objectives and timeline are being met;
- b. Deciding staff resources, as well as helping to define and manage budgetary matters, throughout the life of the investigation;
- c. Managing the administrative and human resource obligations associated with mentorship of the IICs and investigators that report to him/her (e.g., evaluating individual performance, developing individual performance and training plans, approving overtime requests and travel documentation), and coordinating those efforts with the IICs, where appropriate;
- d. Reviewing, providing feedback, and ultimately consenting approval to submit the draft investigation product to the Board;
- e. Coordinating communications with other CSB departments and groups, such as the Board, Office of Recommendations, Office of Congressional and Public Affairs, Office of Board Affairs, Office of the General Counsel, and other investigation teams regarding the investigation, written products and advocacy work.

**Office of Recommendations** – During the conduct of an investigation or study, the Office of Recommendations staff assists the Team in developing draft recommendations, in accordance with Board Order 022, and reviews and comments on investigation products. The Office of Recommendations also participates in outreach to recommendation recipients during the investigation and after recommendations are issued. Post-investigation or study, this Office is responsible for monitoring the progress of recommendations as they are being implemented and evaluating acceptability of recipient responses for Board consideration and vote (also in compliance with Board Order 022).

**Executive Director, Office of Investigations and Recommendations** –The Executive Director

manages the Office of Investigations and Recommendations staff to ensure the development of timely, impactful, high-quality, fact-driven CSB investigative work products and recommendations. Related to the conduct of an investigation, the Executive Director is responsible for:

- a. Driving consistency in investigative approach across investigation teams;
- b. Securing resources necessary to conduct a robust investigative and recommendations program;
- c. Working with the IICs and/or the IICs' Immediate Supervisors to coordinate communications with other CSB departments and groups such as the Board, Office of Recommendations, Office of Congressional and Public Affairs, Office of Board Affairs, Office of the General Counsel, and other investigation teams regarding the investigation, written products, and advocacy work;
- d. Approving the investigation scope and proposed recommendations for the investigation and ensuring project objectives and timeline are being met;
- e. Overseeing and coordinating investigation schedules and product or recommendation development timelines with the IICs and, if applicable, their Immediate Supervisors;
- f. Reviewing, providing feedback, and ultimately consenting that the draft investigation product is ready for submission to the Board;
- g. Transmitting the proposed final report to Board for review and approval;
- h. Providing a resolution to the Board at times when the investigative staff cannot reach a consensus solution on a substantive (non-editorial) issue by attaching to the proposed final report a brief summary describing the issue and opposing viewpoints, the resolution offered, and the rationale for that resolution, as well as any pertinent documents, for Board review and approval;
- i. Facilitating After-Action Review and Lessons Learned meetings to assess the investigative approach used at various stages of each ongoing investigation (e.g., initial deployment, recommendations development, report development, safety video development, public meetings) in order to advance continuous learning efforts, assigning action items to various staff members, and ensuring resolution of those action items.

**Office of the General Counsel (OGC)** – OGC provides legal counsel and advice to the Board, IIC/Investigation Team, and the Recommendations Department, concerning both investigations and recommendation-related activities. In terms of investigations, OGC is responsible for the following:

- a. Making any required legal determinations to assist the Chairperson with deployment decisions;
- b. Issuing CSB employees notices of inspection authority to commence an investigation in accordance with Board Order 020 prior to a team's departure for a field deployment;
- c. Assisting with drafting evidence preservation and site control agreements;
- d. Providing legal support to IIC and Team for evidence preservation, site control, document or evidence collection, and interviews or depositions (pursuant to 40 CFR Part 1610);
- e. Delegating authority for the issuance of subpoenas, depositions, or other methods of compelled cooperation in accordance with Board Orders 011 and 012, and assisting the IIC

- and Team in the preparation of such requests;
- f. Pursuing enforcement of any CSB-issued subpoenas, as necessary;
  - g. Interpreting the CSB's legal authorities and obligations throughout the investigation;
  - h. Providing legal assistance to IIC and Team with requests for the release of investigative information (during or after an investigation) per 40 CFR Parts 1601 (Freedom Of Information Act), 1610, 1611, and 1612, and requests for CSB employee testimony per 40 CFR Part 1611;
  - i. Providing assistance to IIC and Team for drafting non-disclosure agreements for external review cycles;
  - j. As required, making legal determinations about CSB obligations to protect confidential business information, Trade Secrets Act information, or Privacy Act-covered information.

**Chairperson and Board Members (Board)** – The CSB Chairperson and CSB Board Members are Presidentially-appointed, Senate-confirmed appointees, with the Chairperson designated by statute as “the Chief Executive Officer of the Board” who “shall exercise the executive and administrative functions of the Board” and serves as the head of the agency.

Collectively, the Board reviews draft CSB investigative work products, including recommendations, and votes to approve or disapprove them. Related specifically to the conduct of an investigation, the Board has the following responsibilities:

- a. Deploying to certain incidents with the IIC and Team to assist with media relations and stakeholder outreach, as appropriate, in coordination with the IIC, Immediate Supervisor, Executive Director and Public Affairs Manager;
- b. Developing an understanding of historic and ongoing CSB investigations to gain insights into the general conduct of investigations and key lessons learned in order to help ensure future success;
- c. Providing timely, thorough feedback to the Executive Director, IIC, Team, and Recommendations Department on investigation scope, potential recommendations, and CSB draft products, as they are provided to the Board for review;
- d. Working with fellow Board Members to resolve differences of opinion during product reviews in order to communicate clear, consensus-driven direction to the IIC and Team on the next steps in the investigation process and to stakeholders upon completion of the investigation;
- e. Advocating the issues raised in CSB products and their associated recommendations through various outreach opportunities;
- f. Collaborate with the Investigation Team and the Office of Congressional and Public Affairs on draft agency statements and material released to the public.

7. **BOARD OVERSIGHT.** The CSB Board retains oversight of the policies contained herein and, through the Chairperson following the chain of command, holds the staff accountable for adherence to this Order, as well as organizational effectiveness and overall mission success. The Board ensures that staff conduct investigations and create products that comply with the CSB's enabling statute, applicable federal regulations, this Order, the CSB Data Quality Guidelines, and Board Order 022.
8. **PROTOCOL TEAM.** The Protocol Team is an agency committee responsible for reviewing and updating this Order. In addition, the Protocol Team is responsible for developing and updating the Investigation Protocol, and any associated guidance. The Protocol Team may be asked to participate in the periodic review and update of other Board Orders relevant to investigations.

**Organization** – The Protocol Team will consist of experienced investigators and recommendation specialists, and other agency employees, as appropriate.

**Review and Update** – This order and the Investigation Protocol will be updated as follows:

- a. Board Order 040: The Protocol Team will be responsible for reviewing this Order every other year to verify accuracy or propose revisions to the Board, after consultation with the OGC;
- b. Investigation Protocol: The Protocol Team will be responsible for updating the Investigation Protocol, and will function as a standing committee to address feedback as investigative practices or policies evolve.

## **U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

March 2006; Amended December 2011; February 2017.