

# Disaster Response

## Part I

### The Chemical Safety and Hazard Investigation Board

August 25, 2009

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# CSB

A political agency

Established in 1990 but didn't begin operations until 1998

Annual budget of \$10 million but expanding rapidly with a new Denver office

The agency does not issue fines or citations, but does make recommendations to plants, regulatory agencies such as the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA), industry organizations, and labor groups.

- CSB Mission Statement

# CSB

Root cause investigations

Process safety management permeates its philosophy and investigation

Consequently, CSB will always find safety management systems flaws, including inadequate training, at the root of any accident

# CSB Investigation

Team approach; they typically recruit one or more experts specializing in the processes under investigation

Interviews, always recorded, often done tag-team style

Multiple site inspections with extensive and insightful document requests

Rinse and repeat

# The Mindset

Errant employees are not a root cause, but instead are a symptom of an underlying root cause

- Center for Chemical Process Safety

# Don't Be Surprised if You Hear the Following:

“We’re never going to tell you that the answer is to fire an incompetent employee. Either you hired someone incapable of doing a critical job or you hired someone competent and then failed to adequately train him. Either way it was a failure of process safety management.”

- Comment from a CSB investigator during the course of an investigation

# They're Unfailingly Professional and Fair

Genuinely interested in finding the real cause and feasible solutions

Not interested in “gotcha” moments

Reports are exceptional [See Combustible Dust: An Insidious Hazard](#)

# When the CSB Appears On Your Doorstep:

Take a deep breath

Get boots on the ground immediately

Beware of bureaucrat-itis (29 CFR  
1910.119(m), *et. seq.*) – be prepared for  
substance to win out over form at every  
turn

# They May Arrive and Begin Their Investigation Within Hours of the Disaster

Avoid Ready-Fire-Aim mentality

Err on the side of being overly forthcoming  
– it's all coming out anyway

Work hard to understand what really  
happened or risk having the narrative be  
shaped by others

# Things to Consider As You Go Through An Investigation

Counsel may attend interviews

CSB respects attorney client privilege

You can protect your documents and interviews from FOIA requests

Consider the self-audit privilege

The final CSB report will be a roadmap for the inevitable litigation

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## Part II

### The Inevitable Litigation

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