



Washington State Department of
Enterprise Services

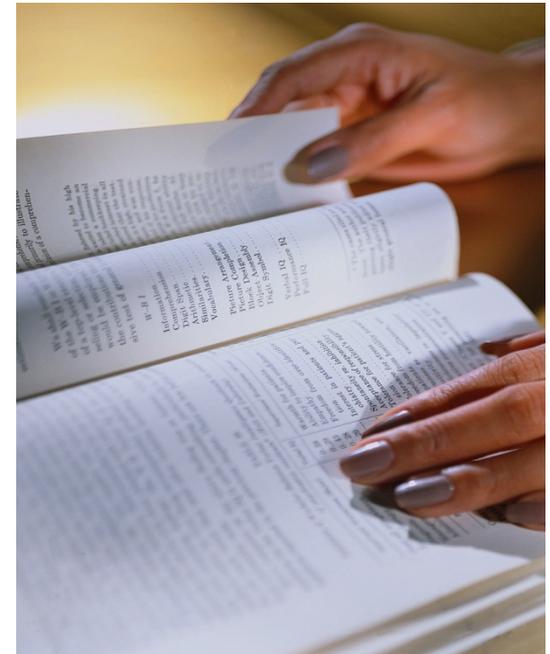
Report on Tort Liability, the Statewide Safety Survey, and Enterprise Risk Management

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Overview

During this session, we will cover:

- tort liability basics,
- actuary's report on state liability,
- results of statewide safety survey, and
- a review of Enterprise Risk Management.



Tort Liability Basics

- What is a tort? *A civil wrong.*
Ex: negligence causing physical harm
- Typically, states have *sovereign immunity*
- Washington waived immunity in 1961
- Agencies can be sued just like private persons
- Washington is self-insured



Self Insurance Liability Program

- Administered by the DES Office of Risk Management (ORM)
- ORM manages the SILP to pay for:
 - State agencies' legal liabilities in tort, and
 - Defense costs
- ORM promotes risk control through its premium allocation system, which relies in part on periodic actuarial studies of the state's loss history



Managing SILP

- Began operation of SILP in FY1991
- Covers the State of Washington, its agencies, and all state employees and volunteers acting within the scope of their employment
- *Except* for the University of Washington and the state Ferries system



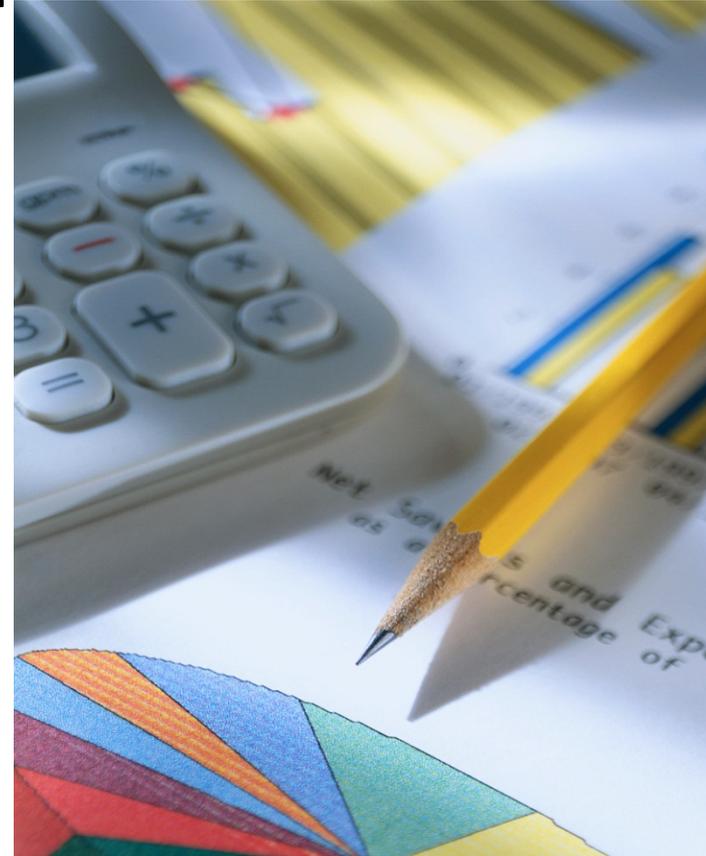
What is – and isn't – covered

- Examples of what is covered by SILP:
 - Injury to a third party (bodily injury or property damage)
 - Violations of civil rights
- Examples of what is not covered by SILP:
 - Worker injuries covered by worker compensation or the Jones Act
 - The State's own losses, such as property damage, resulting from fire or earthquake.
- Commercial insurance is purchased to cover property loss in certain circumstances.



SILP Funding

- All participating agencies fund SILP through premiums paid annually.
- Premium amounts are based on each agency's share of the overall total tort liability costs over the previous six years, together with estimated outstanding liabilities.
- Costs are in three areas: general tort liability, auto tort liability, and defense costs.



How the State is sued

- Must file a tort claim with ORM before suing the State. RCW 4.92.100(1)
- In FY13, 3,244 claims were filed with ORM. The majority of those (68%) were assigned to the ORM Claims Unit to manage.
- Stages of the claim process:
 - Intake (preparation and coding)
 - Valuation
 - Investigation (ORM or AGO)
 - Resolution (negotiated settlement or trial)
 - Payment



When the State is sued

- The ORM's Claims Unit attempts to resolve claims without the delay and costs associated with litigation.
- The ORM Mission: "to fairly compensate those who have been injured because of the tortious actions of the state or its employees."
- All proposed settlements must first be approved by the relevant state agency.
- Claims that do not settle can result in lawsuits, which are defended by the Attorney General.
- ORM works with the AGO and client agency in case evaluations, settlement discussions, and mediation. Payments are approved and processed by the ORM.



State of Washington



Actuarial Overview Self Insurance Liability Program (SILP)

Presented by:

Mujtaba Dato, ACAS, MAAA, FCA
Actuarial Practice Leader
Aon Global Risk Consulting

June 25, 2013



Estimated Outstanding Retained Losses

	As of June 30, 2010 (Prior Study)	As of June 30, 2013 (Current Study)
General Liability	\$712.1 M	\$532.0 M
Auto Liability	\$15.1 M	\$10.7 M
Ferry Liability	\$35.9 M	\$16.0 M
Total	\$763 M	\$559 M
Discounted	\$711 M	\$529 M

Favourable Frequency Driving the Decrease

- Severity has been relatively stable
- Annual Loss Rate trends:
 - General Liability at 3.5%
 - Auto Liability at 6.0%
 - Ferry Liability at 3.5%
- Last 5 years shows significant decrease in number of claims*

	2008	2009	2010	2011	2012
General Liability	698	552	501	494	465
Auto Liability	222	156	182	152	156
Ferry Liability	99	92	75	62	78

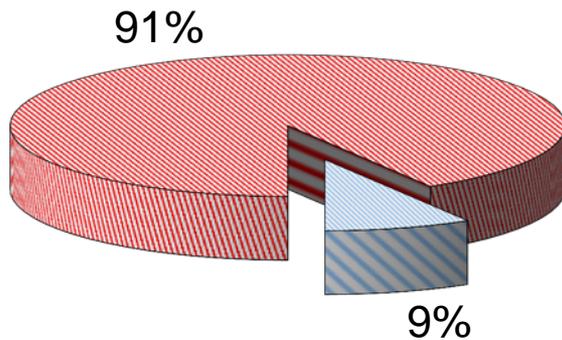
* The actual number of claims filed against the State is approximately 3,500 to 4,000 claims per year. The numbers above reflect only those claims with total incurred values (payouts and reserves) greater than zero. Similarly, however, the total number of claims filed has decreased over the last five years.

GL: 91% of Claims are Less Than \$50,000 and Cost 4%, Remaining 9% Cost 96%



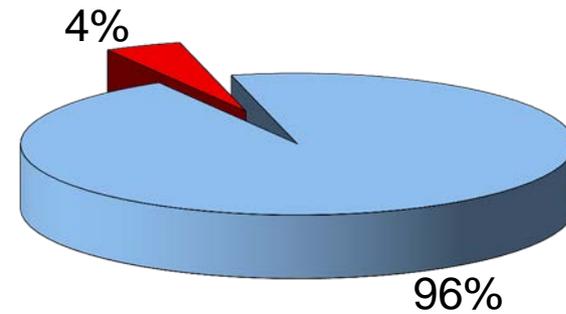
GL

Number of Claims



■ < \$50,000 ■ > \$50,000

\$ Incurred Losses



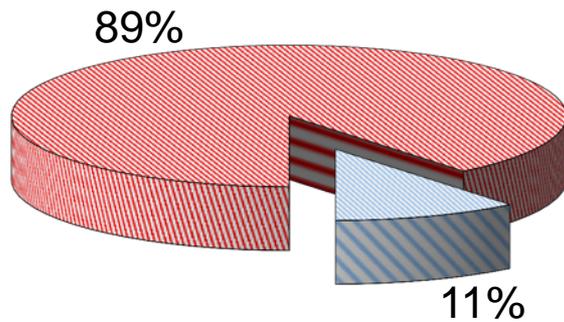
■ < \$50,000 ■ > \$50,000

AL: 89% of Claims are Less Than \$15,000 and Cost 14%, Remaining 11% Cost 86%



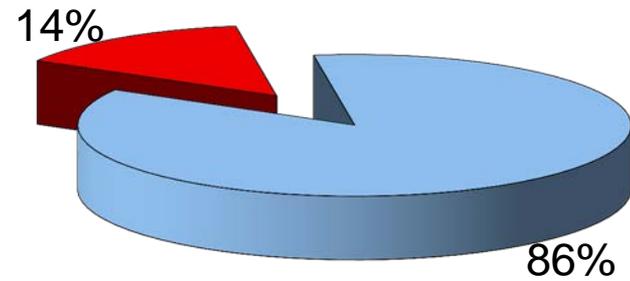
AL

Number of Claims



■ < \$15,000 ■ > \$15,000

\$ Incurred Losses

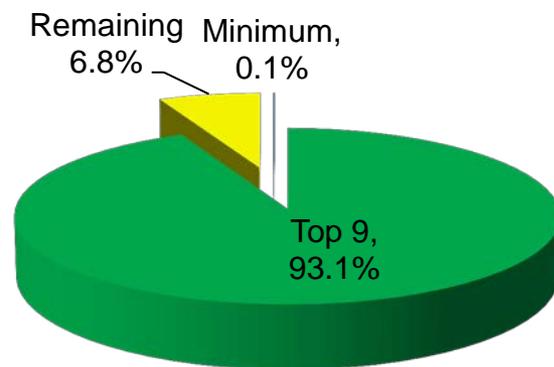


■ < \$15,000 ■ > \$15,000



Distribution of Budget by Agencies

Agencies	No. of Agencies	Biennium Budget	%of Budget
Minimum Allocation	79	\$136,000	0.1%
Top 9 with allocation >\$1M	9	\$138.7M	93.1%
Remaining	64	\$10.2M	6.8%
Total	151	\$149.0M	



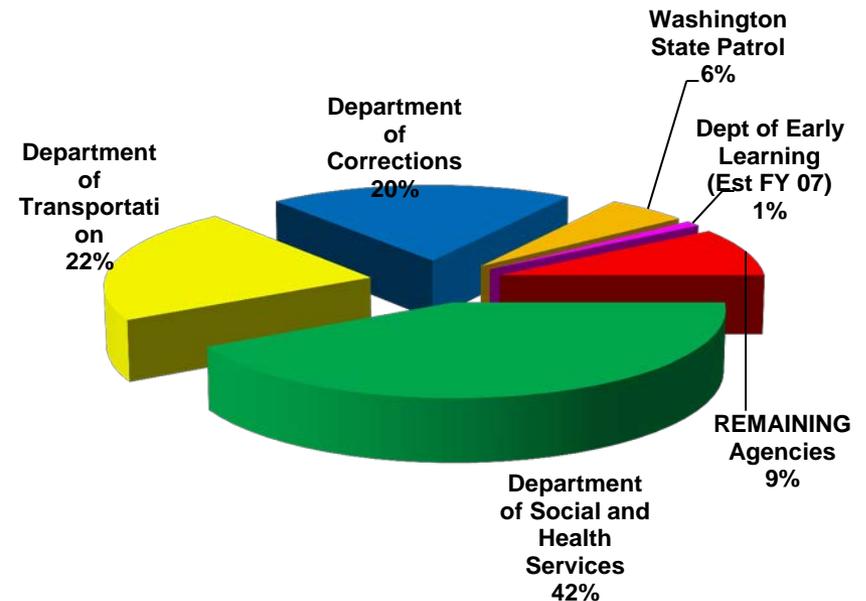
■ Minimum ■ Top 9 ■ Remaining

Premium Allocation (GL + AL)

Top 5 Agencies Contribute 91% of 6-year Losses



Agencies	Biennium Budget	%
Department of Social and Health Services	\$62,415,864	42%
Department of Transportation	33,021,533	22%
Department of Corrections	30,102,353	20%
Washington State Patrol	8,028,934	6%
Dept of Early Learning (Est FY 07)	1,534,191	1%
REMAINING Agencies	13,897,125	9%
TOTAL	\$149,000,000	100%



Results Washington

Governor Inslee's vision:

Results Washington will use the latest technology to routinely gather, review and display performance data which will make it easier for citizens to see . . . how well state government [is] delivering services.

Goal 4: *Healthy and Safe Communities*

All Washingtonians deserve . . . to be safe and protected . . . at work.

Safety improvement will be measured specifically by:

Decreasing workplace injury rates that result in missing 3 or more days from work from 376 per 100,000 full-time workers to 354 per 100,000 full-time workers by 2016.



The SASPA State Safety Survey

- Survey created by the State Agency Safety Professionals' Association (SASPA), an association formed several years ago by large agency safety managers and professionals.
- Survey was designed to be more useful safety tool than (previously distributed) L&I Form 33
- 17 agencies participated in writing and testing survey
- Rolled out in FY11
- Given to entire state in FY12, repeated in FY13



Improved Worker Participation

Survey given in two waves:

Spring – given to all agencies other than state higher education institutions

Fall – given to state higher education institutions

Results:

FY12 State agencies: 22,007 responses
Higher Ed institutions: 4,222 responses

FY13 State agencies: 17,960 responses
Higher Ed institutions: due November 14, 2013

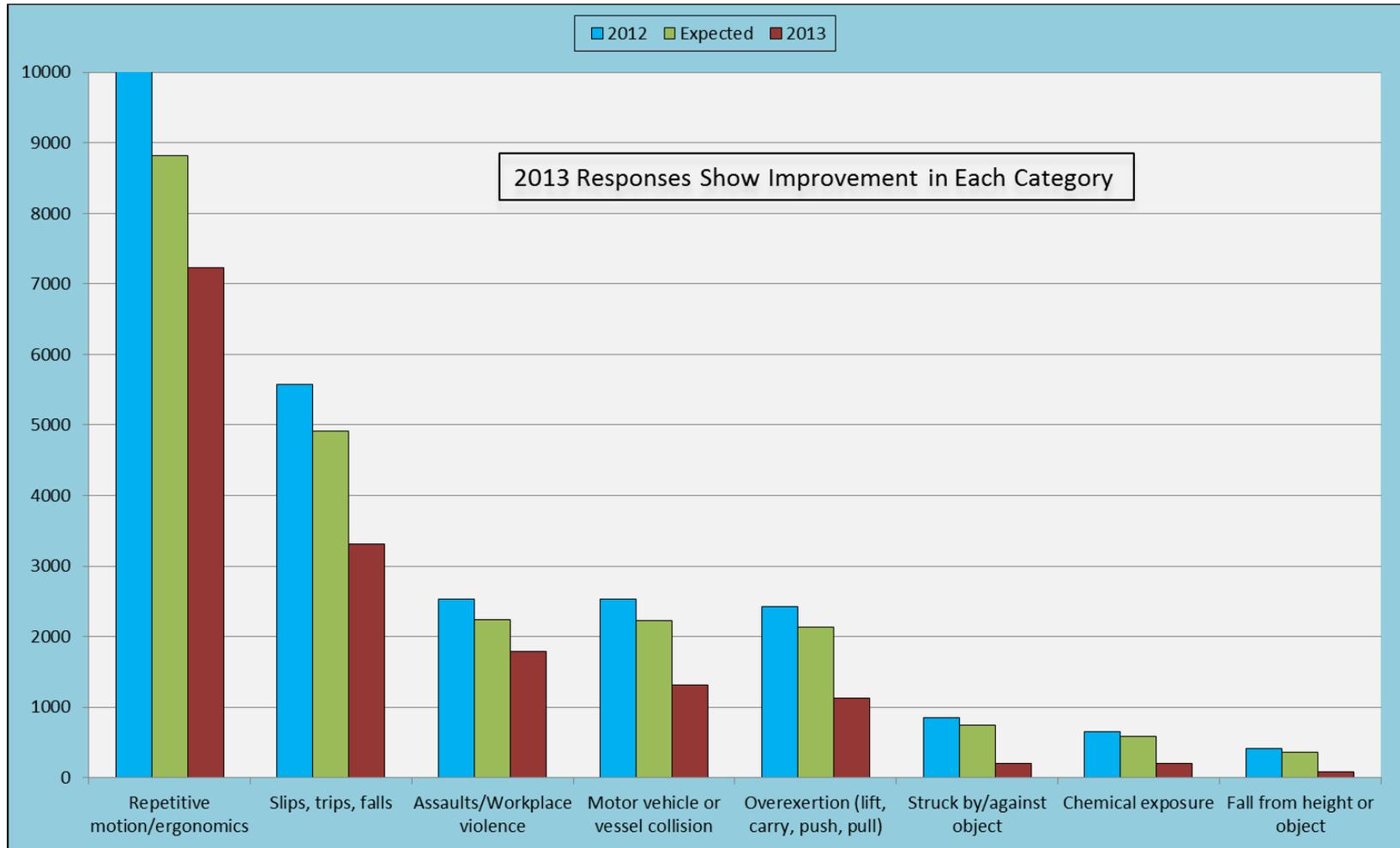


Highlights of Improved Worker Participation

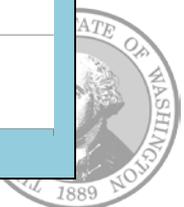
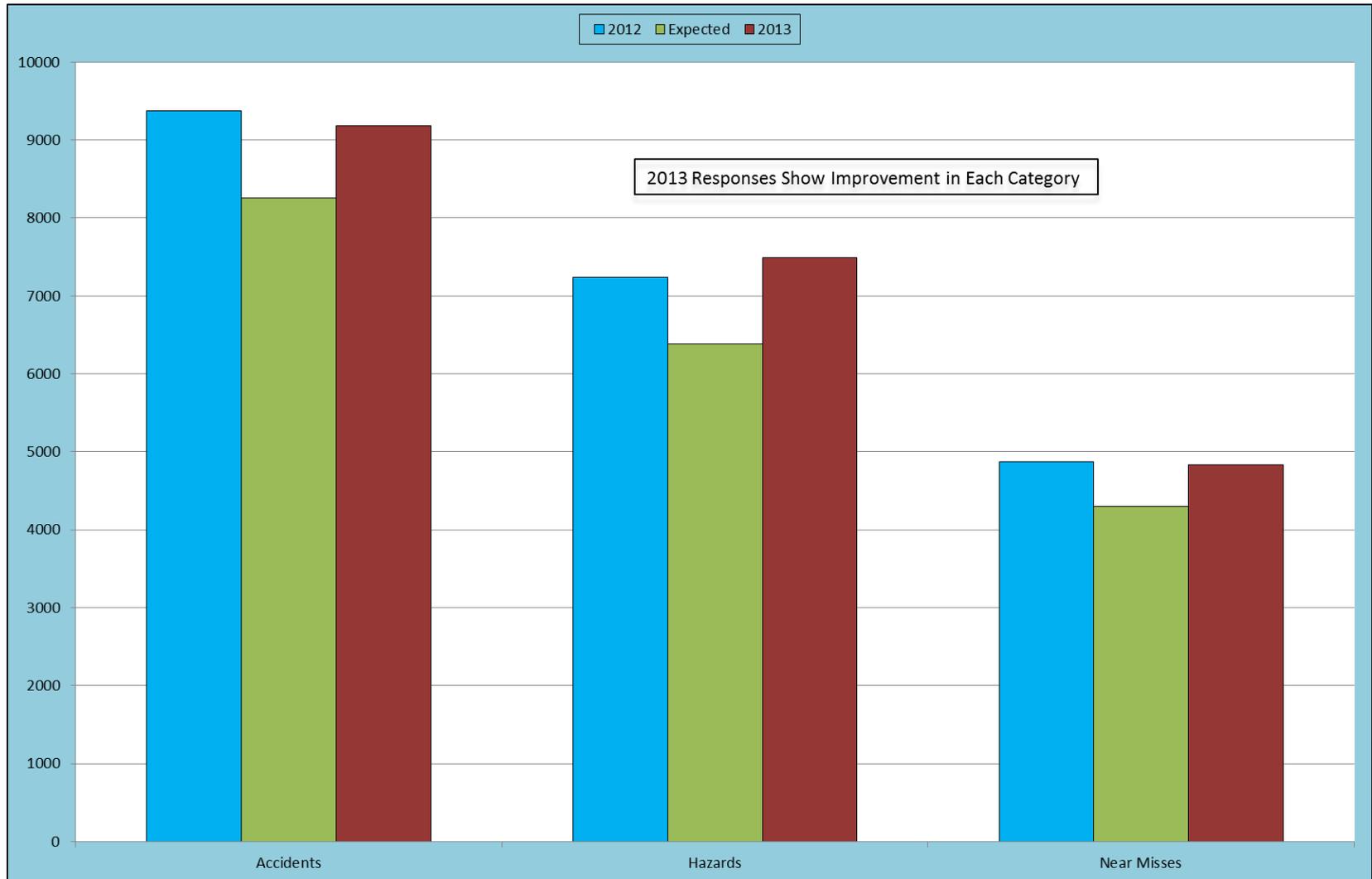
	FTE	Total Surveys	Percent	Est. FTE	Total Surveys	Percent	% Delta	Surveys Delta
Agency	FY 2012	FY 12	FTE Voting	FY 2013	FY 13	FTE Voting	FY 12-FY 13	FY 12-FY 13
095 - Office of State Auditor	334.8	0	0%	342.8	147	43%	43%	147
105 - Office of Financial Management	252.1	102	40%	227.5	127	56%	15%	25
163 - Consolidated Tech Serv	207.5	93	45%	267.7	159	59%	15%	66
195 - Liquor Control Board	1,236.8	51	4%	292.5	145	50%	45%	94
225 - Washington State Patrol	2,291.0	153	7%	2,297.4	272	12%	5%	119
303 - Department of Health	1,486.7	699	47%	1,524.3	769	50%	3%	70
310 - Department of Corrections	7,839.6	923	12%	7,874.7	3168	40%	28%	2245



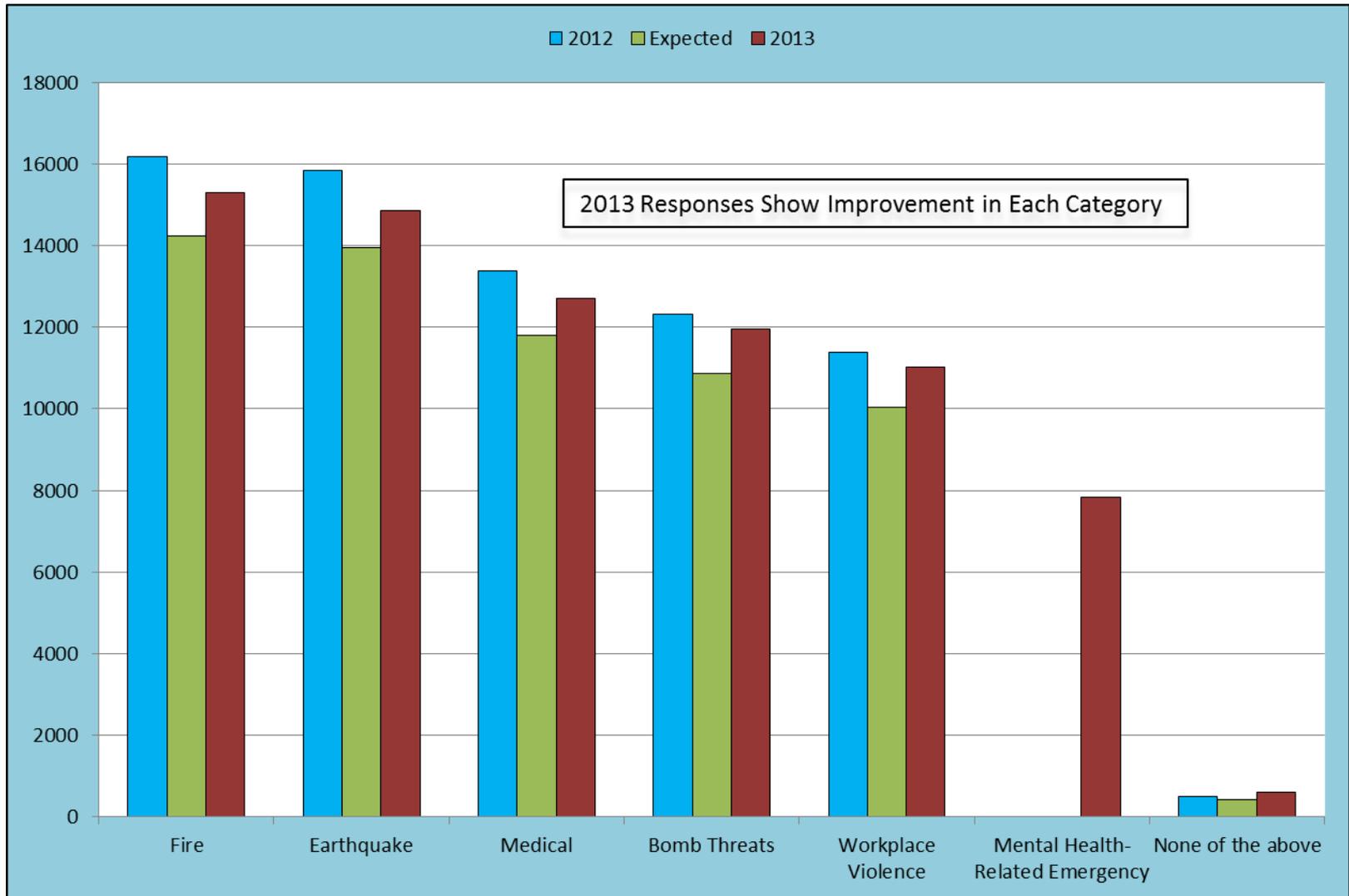
What is the most common potential safety hazard that you encounter?



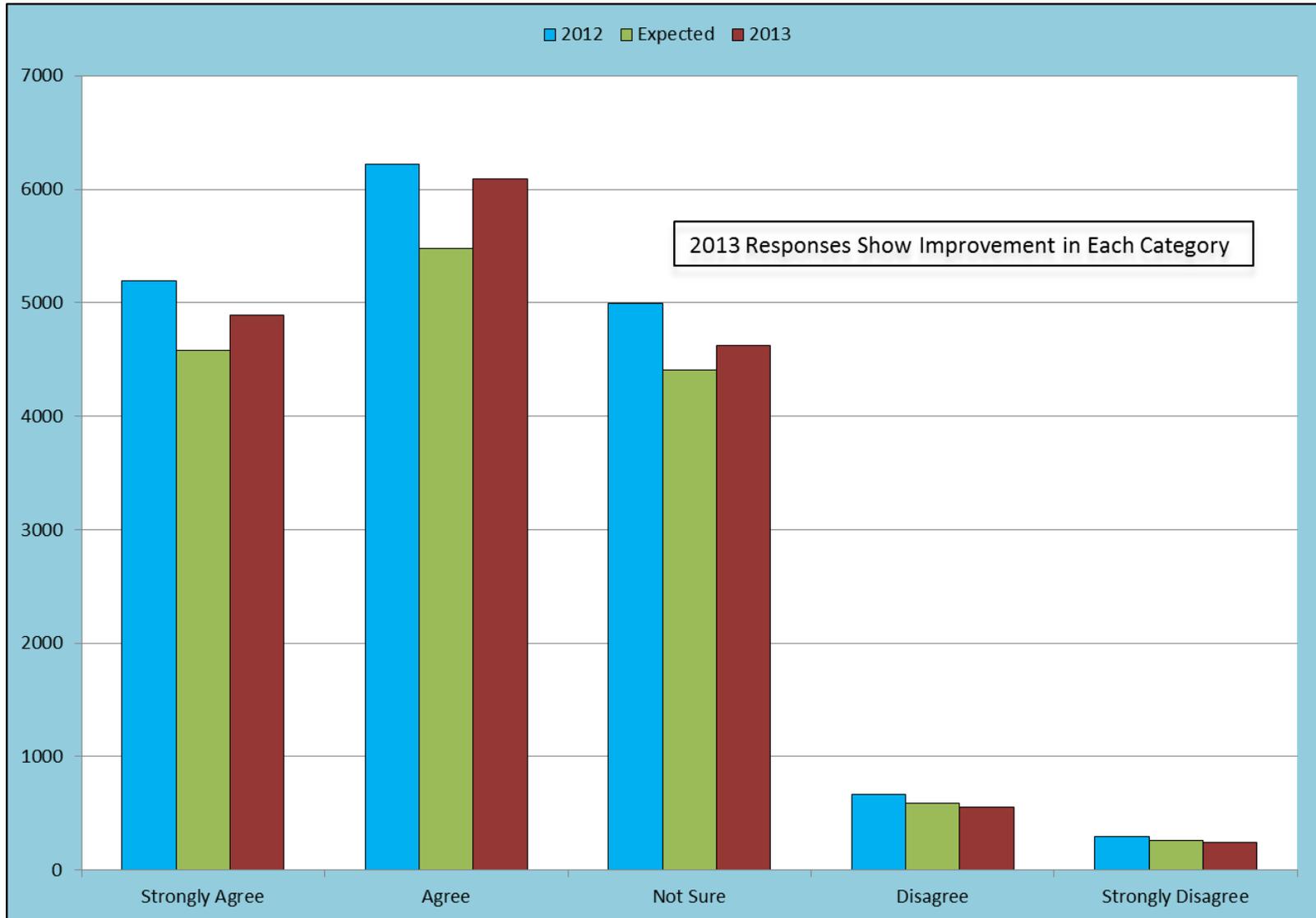
When I report the following, they are investigated (choose all that apply).



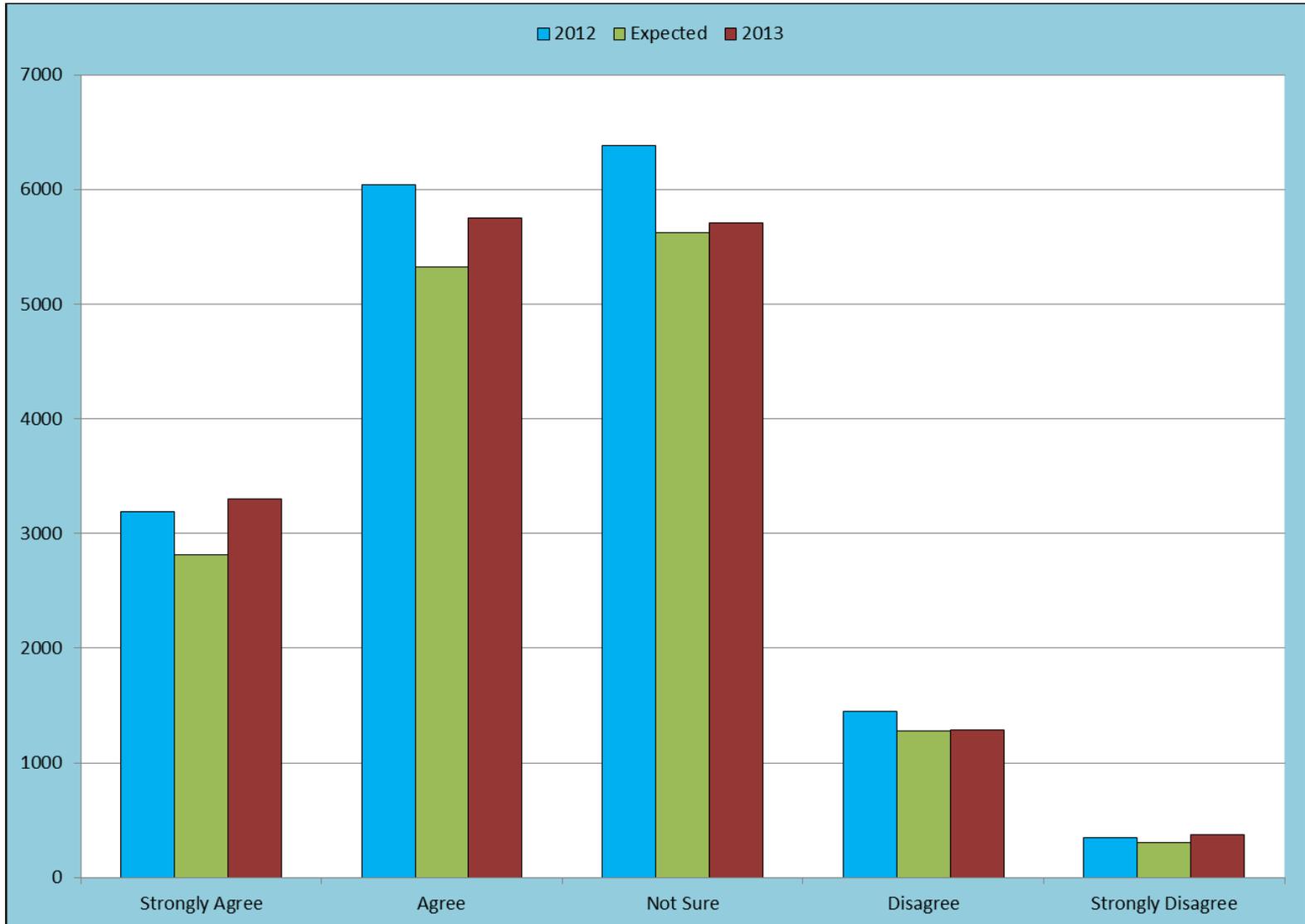
I know how to respond to the following emergencies (check all that apply).



My safety committee is responsive to safety suggestions and concerns from employees.



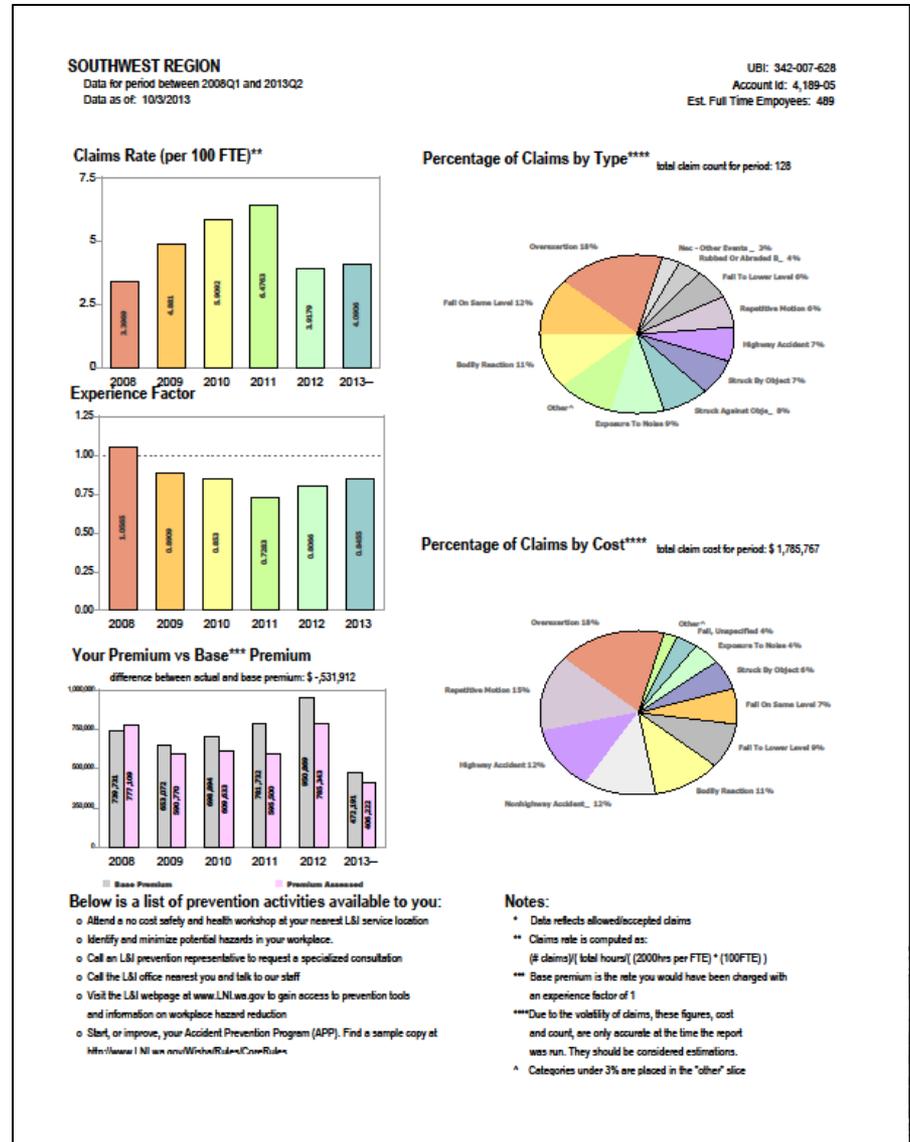
Inspections for safety hazards are conducted regularly in my workplace.



L&I Industrial Insurance Account Summaries

Account Summaries provide:

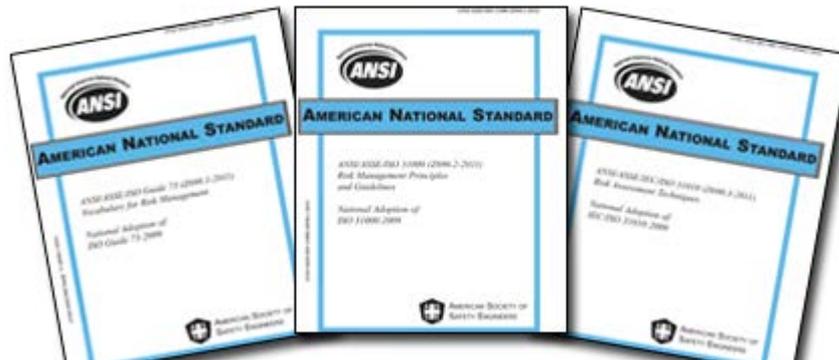
1. an agency's claim rate;
2. its experience factor (indicator of degree of losses compared to other agencies with similar business safety risks);
3. the distribution of types of injuries that occur in the agency; and
4. the distribution of claims as measured by their attendant costs.



ERM Defined

ERM is a coordinated method of performing risk management that considers every aspect of risks that affect agency goals.

- Includes all agency programs and operations (no more silos)
- Requires open communication from all levels of the organization about goals, operations and issues
- Results in a high-level review of the most severe risks to achieving all agency goals
- Creates a coordinated way to identify and assess **opportunities**
- In 2011, ERM was adopted as the American Standard for risk management – ISO 31000



How ERM Defines 'Risk'

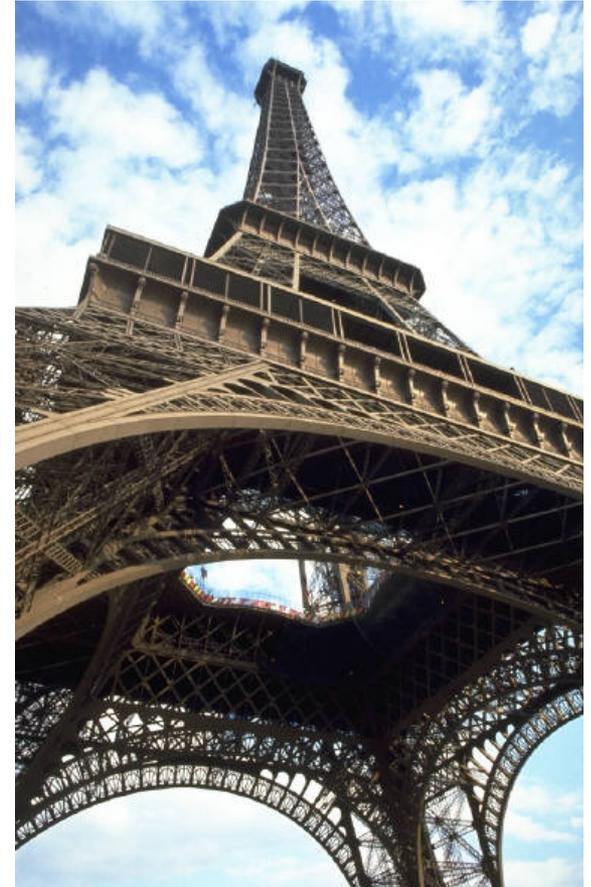
Risk: anything that can interrupt the achievement of your goal on time

Opportunity: the 'flip' side of risk: anything that results in over-achievement of your goal



The ERM Method (ISO 31000)

Clearly state the goal
List risks and opportunities
Evaluate each risk/opportunity
Prioritize risks/opportunities
Respond (Mitigate/Seize)
Make a Register
Communicate Results



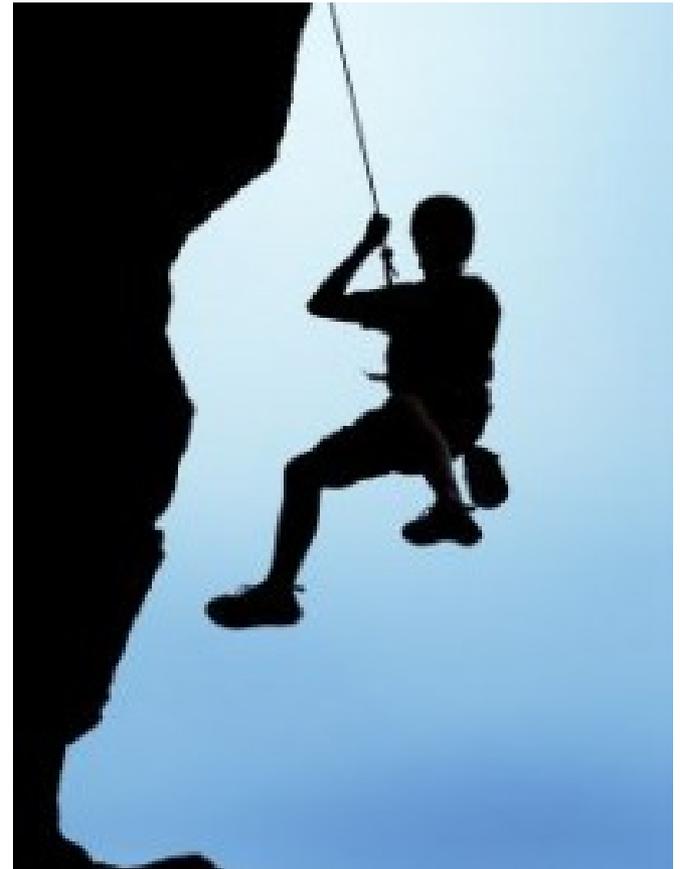
Step One: State Your Goal

State in the positive

Be specific and precise

Have a time-frame in mind

Who's at the table?



Step Two: List Risks & Opportunities

List everything, good and bad, big and small

Include everyone's ideas, even the 'negatives'

You may want to involve others, too:

- Put on staff meeting agendas
- Send out a survey
- Ask 'Subject Matter Experts'

Don't be distracted by 'cures' right now



Step Three: Evaluation

Likelihood

(How likely is this to happen in my time-frame?)

1. Hardly ever
2. Once or twice
3. Often
4. Frequently
5. Almost always

Impact

(How would it affect my goal if it happened?)

1. Very little
2. Minor
3. Major
4. Critical
5. Fatal



It is common to see different words used to describe the scores and even the categories, like 'Frequency/Severity' or 'Stable/Volatile'



Step Four: Mapping

Why voting works

The most severe risks/
best opportunities will
fall in the 'Red Zone'

Unless you have
unlimited resources of
people, time and money
... work on red zone risks
and opportunities!

	1 Very Little	2 Minor	3 Major	4 Critical	5 Fatal
5 Almost Always	(5)	(10)	(15)	(20)	(25)
4 Frequent	(4)	(8)	(12)	(16)	(20)
3 Often	(3)	(6)	(9)	(12)	(15)
2 Once or Twice	(2)	(4)	(6)	(8)	(10)
1 Hardly Ever	(1)	(2)	(3)	(4)	(5)



Step Five: Respond to Priorities

To treat/mitigate a priority risk or opportunity:

- Avoid/Exploit
- Accept & Monitor
- Reduce the Likelihood/Impact
- Transfer

The response you choose must:

- Fit the risk appetite of your group
- Reflect the amount of control you have
- Be measurable and time-limited

This process yields efficient results.



Step Six: Risk/Opportunity Register

A Risk/Opportunity Register is a list of priority risks/opportunities & an overview of how you will handle them

A register functions as a dashboard for managing risks and/or opportunities – and therefore goals

GOAL:						
Priority Risk or Opportunity (Briefly describe)	Root Cause(s)	Risk or Opportunity Response (Check type and briefly describe)		How will we know our response was successful? (What are the 'measures'?)	Target Response Date	Person Responsible
		<input type="checkbox"/> Avoid/Exploit <input type="checkbox"/> Accept & Monitor <input type="checkbox"/> Reduce frequency <input type="checkbox"/> Reduce impact <input type="checkbox"/> Transfer				
		<input type="checkbox"/> Avoid/Exploit <input type="checkbox"/> Accept & Monitor <input type="checkbox"/> Reduce frequency <input type="checkbox"/> Reduce impact <input type="checkbox"/> Transfer				



Root cause analysis and response

GOAL:						
Priority Risk/ Opportunity (Briefly describe)	Root Cause(s)	Risk/Opportunity Response (Check type and briefly describe)		How will we know risk or opportunity was successfully handled? (What are the 'measures'?)	Response Review Date	Person Responsible
		<input type="checkbox"/> Exploit <input type="checkbox"/> Avoid <input type="checkbox"/> Accept & Monitor <input type="checkbox"/> Change frequency <input type="checkbox"/> Change impact <input type="checkbox"/> Transfer				

Important to treat root causes, not symptoms
 Always analyze all possible responses.
 Prepare to be surprised by what you learn.



Registers are Powerful Tools

Register Benefits:

- ✓ Comprehensive and ranked list of critical issues
- ✓ Defensible basis for decision-making and funding
- ✓ Improves communication
- ✓ Illustrates clarity of purpose
- ✓ Reconciles and coordinates competing values
- ✓ Demonstrates credibility



Implement Your Plan

Get people involved
Compare results to your
success measures
Identify any gaps
Refine your plan

OR:

Reassess your response and
create a new plan
. . . and don't forget about
residual risks.



Step 7: Communicate the Results

Celebrate your successes

Refine the results

Share as 'Best Practices'

Update your goals

Move forward!



All ERM Methods Deliver Results

Helps refine goals

Improves communication

Deploys scarce resources where they will do the most good

Repeatable, scalable & defensible

Success Oriented

Recognized world-wide standard

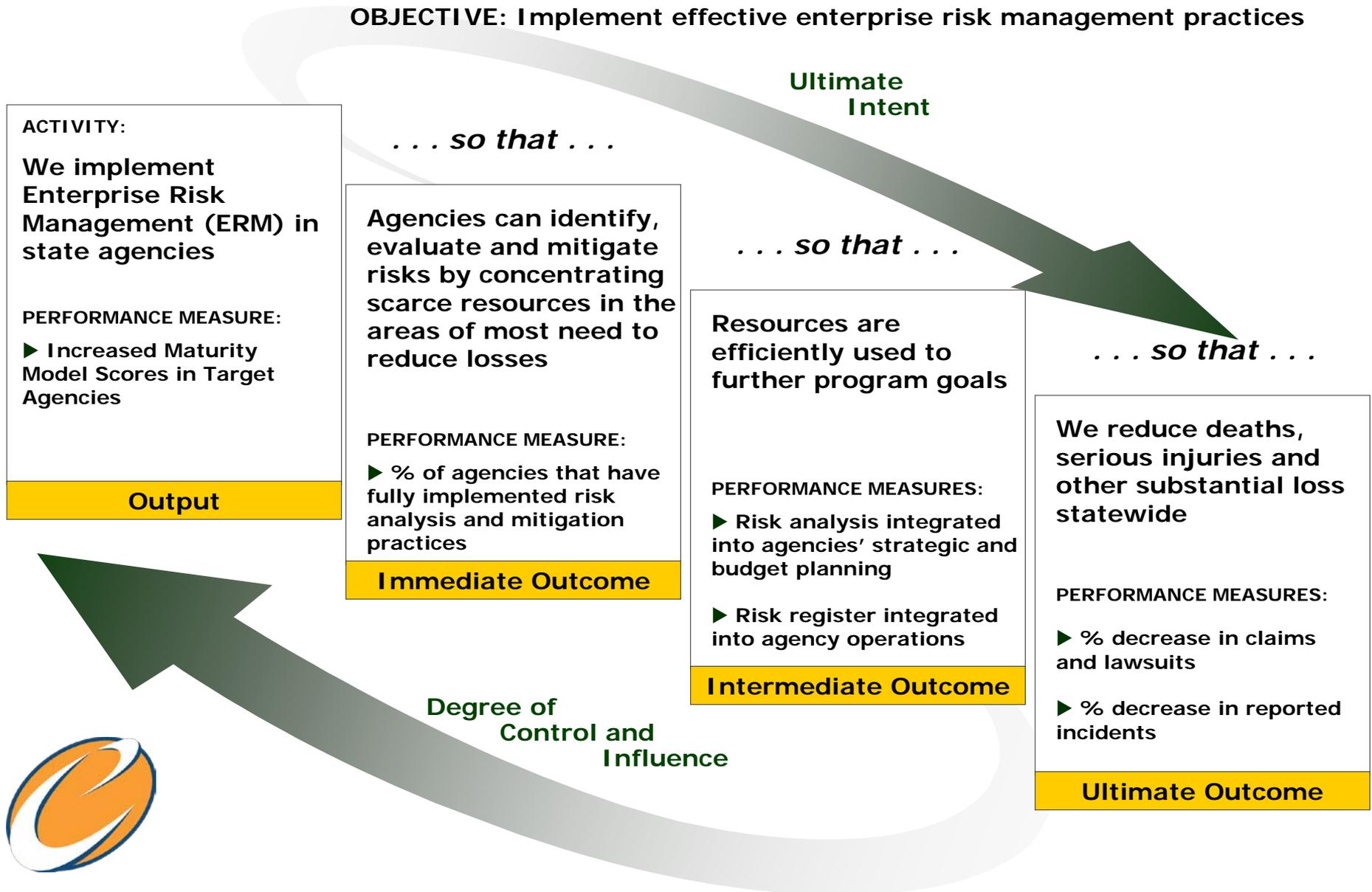
Many agency practitioners – Canada, UC, Maricopa County, etc.



Enterprise Risk Management Logic Model

GOAL: Improve health and safety for all citizens

OBJECTIVE: Implement effective enterprise risk management practices



Using Risk Intelligence

Enterprise risk management *is* enterprise goal management.

- ✓ ERM is a tool that can result in every employee's work being aligned with the agency's goals
- ✓ Everyone is a risk manager
- ✓ Risk intelligence is essential to understanding the environment within which an agency does its work
- ✓ Enterprise risk management is, simply, good management.
- ✓ Start now: how am I furthering the goals of government? What's holding me back? What do I need to excel?



What we covered today

Learned about tort liability basics

Heard highlights of the actuary's report on state tort liability

Learned about the state safety survey

Got some ERM tools for using risk intelligence at work (registers, the three questions)

Thank you for participating!



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