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**Document Title:** Adoption of Federal Standards

**Approval Authority:** Bureau Chief

#### A. PURPOSE AND SCOPE

This bureau operating procedure (BOP) defines the process for the review and subsequent recommendation for adoption of Federal promulgated standards. This procedure applies to the Education, Training and Technical Assistance (ETTA) Standards section.

#### B. ACTION STEPS

1. Federal Occupational Safety and Health Administration (OSHA) promulgates rule change.
2. Rules with an automatic adoption per 13 NCAC 07A .0301 – Incorporation by Reference will not require a formal review and will begin with Action Step 11.c.iii. below.
3. For rules that are not automatically adopted verbatim, Standards Supervisor assigns rule for review and completes the following steps.
  - a. Completes top portions of the Document Response and Tracking (DRAT) Sheet and Summary Sheet.
    - i. Determines the deadline dates.
      - A. The deadline for Standards Officers will be based on the complexity of the rule(s) under review and will allow appropriate time for review and adoption paperwork to be completed prior to federal deadlines.
      - B. The federal requirement for promulgation in North Carolina is six months following the federal promulgation date.
      - C. The federal requirement for submitting the Occupational Safety and Health (OSH) Division intent to OSHA is 60 days following the federal promulgation date.
      - D. Standards Supervisor will keep State Plan Coordinator apprised of the status of the adoption throughout the review process.
    - b. Assigns rule change to Standards Officer and sends assigned Standards Officer a copy of the rule, the DRAT Sheet, and Summary Sheet.
  4. Standards Officer reviews rule and assembles documents for file. The Standards Officer will complete the following steps.
    - a. Solicits comments and recommendations via email from compliance, consultative, agricultural safety and health (as applicable), and ETTA Bureau Chiefs. The Standards Officer will copy the Standards Supervisor and Assistant OSH Director on the email. The Standards Officer will set a requested deadline based on the complexity of the rule(s) and other deadline considerations.
    - b. Completes review and recommends verbatim adoption, adoption with modifications, or no adoption.

- c. Completes recommended action section of DRAT Sheet.
- d. Completes Summary Sheet.
- e. Gathers documents for the review process.
  - i. DRAT Sheet
  - ii. Summary Sheet
  - iii. Copies of emails from Bureau Chiefs (or their representatives) with comments and suggestions. If no responses are received, Standards Officer will include the original email requesting responses, with a note that no responses were received.
  - iv. A copy of the final rule and discussion as printed in the Federal Register. This copy should contain the Standards Officer's notes and/or highlights, as applicable. Notes should indicate any areas of concern, any areas that affect the OSH Division resources (time, money, equipment, etc.), or any other area as deemed pertinent to the decision-making process. Standards Officer may also create supplemental documents to help with the review. Items may include a side-by-side comparison of old versus new rules, a summary list of changes, etc.
- f. Forwards file to Standards Supervisor for review and approval.

5. Standards Supervisor reviews file.
  - a. Reviews DRAT Sheet, Summary Sheet, making edits and consulting with Standards Officer, as needed.
6. Standards Supervisor assembles final file for review.
  - a. Standards Supervisor assembles final DRAT Sheet and Summary Sheet and places in green review folder (or uploads into email for review and signatures), ensuring each item in the folder is complete and appropriately labeled.
  - b. Signs and dates DRAT Sheet.
  - c. Forwards file to ETTA Bureau Chief for final review and approval.
7. ETTA Bureau Chief reviews file.
  - a. ETTA Bureau Chief reviews all documents in the file, ensuring each item is complete.
  - b. Signs and dates DRAT Sheet.
  - c. Forwards file to the Assistant OSH Director for final review and approval.
8. OSH Assistant Director reviews file.
  - a. Reviews and approves or rejects decision regarding rule adoption, communicating with Standards Supervisor, as necessary.
  - b. Signs and dates DRAT Sheet, if approved.
  - c. Forwards file to the OSH Director for final review and approval.
9. OSH Director reviews file.
  - a. Reviews and approves or rejects decision regarding rule adoption, communicating with Standards Supervisor, as necessary.
  - b. Signs and dates DRAT Sheet. If adoption is approved, the date the OSH Director signs the DRAT Sheet is the adoption date.

- c. Returns signed file to Standards Supervisor.

10. Standards Supervisor purges file and sends appropriate items for processing/filing.

- a. Do not adopt:
  - i. If state rulemaking is required due to a decision not to adopt the final rule, BOP D.05.S03 – Creation of State-Specific Rules should be followed.
  - ii. DRAT Sheet and Federal Register originals will be filed by the Field Information System (FIS) Coordinator with a red file folder tab in the FIS cabinet along with any cross references to related state-specific rulemaking.
- b. Adopt with modifications:
  - i. If state rulemaking is required due to a decision to adopt with modifications, BOP D.05.S03 – Creation of State-Specific Rules should be followed.
  - ii. DRAT Sheet and Federal Register originals will be filed by the FIS Coordinator with a clear file folder tab in the FIS cabinet along with any cross references to related state-specific rulemaking.
- c. Verbatim adoptions:
  - i. The Standards Supervisor provides the following documents to the Legal Affairs Division's Rulemaking Coordinator:
    - A. A copy of the signed DRAT Sheet, showing adoption date.
    - B. A copy of the Federal Register containing the final rule.
  - ii. Standards Supervisor returns notes to assigned Standards Officer.
  - iii. The Standards Supervisor will notify the originally assigned Standards Officer of the NC effective date (as provided by the Rulemaking Coordinator) and will assign the Standards Officer to prepare the cover sheet for OSH Director's signature.
  - iv. Standards Officer will:
    - A. Prepare the draft cover sheet.
    - B. Submit the file electronically to the Standards Supervisor for review.
  - v. Standards Supervisor will:
    - A. Review/revise the draft cover sheet.
    - B. Submit the file electronically to the ETTA Bureau Chief for review.
  - vi. ETTA Bureau Chief will:
    - A. Review/revise the draft cover sheet.
    - B. Submit the file electronically to the Standards Supervisor for processing.
  - vii. Standards Supervisor will:
    - A. Submit the final file for signature by the OSH Director. The file will also contain copy of the full text from the Federal Register and DRAT Sheet with original adoption signatures.
  - viii. The OSH Director will sign the final cover sheet and return to the Standards Supervisor, unless edits are necessary.

- ix. The Standards Supervisor will submit the signed final cover sheet, DRAT Sheet with adoption signatures and Federal Register to the FIS Coordinator for filing/posting.
- x. Standards Supervisor reviews the Summary Sheet and assigns any action items, which may include updating/creating training, publications, web content, newsletter articles, etc.
- xi. The FIS Coordinator will file and post the documentation as follows:
  - A. The FIS Coordinator will post the coversheet and electronic copy of the Federal Register on the FIS. The signature line of the electronic cover sheet will be marked to state “signed on original.”
  - B. The FIS Coordinator will update the NC Department of Labor webpage with a summary and NC pertinent effective dates, as assigned by the Standards Supervisor.
  - C. The FIS Coordinator will notify OSH Division via the weekly FIS Update emails.
  - D. The FIS Coordinator will file the signed original DRAT Sheet, signed original cover sheet, and clean copy of printed Federal Register using a clear filing tab.

#### **C. REFERENCES**

1. 13 NCAC 07A .0301 – Incorporation by Reference
2. 29 CFR 1953 – Changes to State Plans
3. BOP D.05.S03 – Creation of State-Specific Rules

#### **D. ATTACHMENTS**

1. Document Response and Tracking Sheet (located on F: ...ETTA//Forms/Standards Forms)
2. Summary Sheet (located on F: ...ETTA//Forms/Standards Forms)

#### **E. REVISIONS**

1. March 1, 2009 changed “lead assessor” to “standards officer” and clarified FIS coordinator tasks vs. standards officer tasks.

Reviewed March 2011 no changes.

2. June 22, 2018 significant updates to match current process.
3. June 27, 2019 minor updates.
4. June 17, 2021 minor updates to include flexibility for submitting files electronically for review/signatures.