

<b>BOP D.05.S07</b>	<b>Effective: 09/01/2007</b>	<b>Revision 5: 6/17/2021</b>
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**Document Title: Responses to Inquiries**

**Approval Authority: Bureau Chief**

#### **A. PURPOSE AND SCOPE**

This Bureau Operating Procedure (BOP) defines the process for responding to requests for written or verbal clarification and interpretations of Occupational Safety and Health Administration (OSHA) or state-specific Occupational Safety and Health (OSH) Division standards. This procedure applies to all Education, Training and Technical Assistance (ETTA) Standards Section staff. The purpose of this BOP is to ensure clarity and accuracy with all responses.

#### **B. ACTION STEPS FOR PRINTED AND ELECTRONICALLY TRANSMITTED INQUIRIES**

1. A request is received for a clarification of a standard or for an interpretation regarding how a standard applies to a given process or condition. The request can be received by letter, fax, email or through the online web form.
2. The request is assigned to a Standards Officer.
  - a. If the request involves an open compliance inspection, the requester will be directed to the inspecting Compliance Safety and Health Officer (CSHO) or the CSHO's immediate supervisor.
  - b. Upon receipt of an inquiry where a phone number or email address for the recipient is available, the assigned Standards Officer will make initial contact within five business days. Depending on the complexity of the question and the Standards Officer's workload, the initial contact could contain the full response, a request for additional information, or a simple confirmation noting that the Standards Officer has received the inquiry and will be working on the response. Initial contact can be made by email or phone. If made by phone, the Standards Officer will document the date of the phone call.
    - i. There are infrequent instances when an inquiry is received by mail and the recipient only includes a mailing address (e.g. an inmate in a correctional institution). In this case, no initial response is required within five business days. The first contact the individual will receive is the full response and the timeline will be based on inquiry complexity and Standards Officer workload.
3. The Standards Officer formulates a written response.
  - a. Each written response will include a restatement of the question submitted, followed by the answer. Sources for additional information will be referenced

and hyperlinks or attachments included, where applicable. A template including an outline of expected elements can be found in Appendix A.

- b. Most inquiries can be answered within a week or two of receipt. However, for inquiries requiring a lengthy turnaround, such as those with complex research, the Standards Officer will remain in contact with the requestor throughout the process.
  - c. Unless otherwise approved by the requester, responses will be provided via the route the inquiry was received. For example, if a question was received via email, the response will be provided via email.
    - i. In the case of written inquiries where the question is unclear, the assigned Standards Officer may attempt to reach the requestor by phone or invite the requestor to call the Standards Officer for further clarification. In those cases, if the requestor states that a verbal response is sufficient, the Standards Officer will notify the Standards Supervisor via email that the inquiry was handled by phone.
  - d. Responses provided via letter will be submitted using the letterhead of the assigned Standards Officer.
4. If the original request was received by the Commissioner, OSH Director or any other North Carolina Department of Labor (NCDOL) management official, the response will be submitted from the assigned Standards Officer and the appropriate management official(s) will be copied on the response.
5. The Standards Officer submits the response for review.
- a. The assigned Standards Officer will exercise professional judgement to determine if the response requires peer review or concurrence by another Standards Officer prior to submission for final review by the Standards Supervisor. Newly hired Standards Officers will submit responses to review by the Standards Supervisor until the Standards Officer is approved to send responses without initial review.
  - b. For email responses, final review by the Standards Supervisor will be satisfied by copying the Standards Supervisor on the email sent to the requester. The Standards Officer may request review prior to submission as needed.
  - c. For more formal responses on NCDOL letterhead, final review by the Standards Supervisor will be required prior to distribution. The Standards Supervisor will use professional judgement to determine the need for further review by OSH management, as applicable.

### **C. ACTION STEPS FOR VERBAL INQUIRIES**

- 1. The Standards Officer will record as much of the following information as given:
  - a. Caller's contact information (name, employer and phone number)
  - b. Caller's question with standard number referenced when applicable
  - c. Answer provided

2. If caller is involved with an open compliance inspection, the Standards Officer will refer the caller to the inspecting CSHO or the CSHO's immediate supervisor.
3. As determined by the Standards Officer, an inquiry may require additional research, which could be infeasible during the phone call. The Standards Officer will notify the caller that additional research is necessary and will provide an estimate for when the caller may receive a return phone call.
4. If the question is unclear or leading, the Standards Officer will inform the caller that additional research is necessary to provide an accurate answer and return the call later. The Standards Officer will discuss the situation with the Standards Supervisor to determine appropriate action.
5. Standards Officers will use professional judgement to determine when an email follow-up may be appropriate. The Standards Officer will restate the question being asked, along with the response, to ensure consistency between the requested and provided information. When necessary, the Standards Officer may request that the individual send the question(s) in their own words via email. The Standards Supervisor will be copied on any email responses sent to the requestor.
6. If the caller requests a written response on NCDOL letterhead, the Standards Officer will request that the caller submit the question in writing or by email, so the question can be clearly provided in the caller's own words. Once the written request is received, the steps in paragraph B - Action Steps for Printed and Electronically Transmitted Inquiries will be followed.

#### **D. ACTION STEPS FOR RESPONSES AFFECTING ENFORCEMENT**

1. If the response creates or modifies compliance enforcement policy, including new interpretations:
  - a. The Standards Officer will discuss creating or revising a state-specific policy or coversheet to a federal directive with the Standards Supervisor.
  - b. The Standards Officer will create the new policy or revise the existing policy.
  - c. The Standards Officer will refer to BOP D.05.S04 – Adoption of Federal Directives or BOP D.05.S06 – Adoption of State-Specific Policy Documents for instructions regarding the creation or revision of policies.

#### **E. REFERENCES**

None

#### **F. ATTACHMENTS**

None

#### **G. REVISIONS**

1. March 1, 2009 clarified review process.  
Reviewed March, 2011 no changes.

2. May 10, 2017 clarified review process.
3. June 20, 2018 minor revisions.
4. June 27, 2019 minor updates.
5. June 17, 2021. Updates to inquiry response times. Added Appendix A – Email Inquiry Response Template.

## APPENDIX A: EMAIL INQUIRY RESPONSE TEMPLATE

Each email response should follow the same basic outline. The elements can be found below.

### A. INTRODUCTION

1. Standards Officers will use language similar to the following excerpt for inquiries received through the Ask OSH email account or web form.

State the customer's name, e.g. Mr./Ms. Doe or To Whom it May Concern,

Thank you for contacting the Occupational Safety and Health (OSH) Division of the North Carolina Department of Labor (NCDOL). This response constitutes an OSH Division interpretation of the specific requirements discussed and may not apply to locations outside North Carolina. Your question(s) has been restated below, followed by my response.

2. Standards Officers will use language similar to the following excerpt for inquiries forwarded to the OSH Division from Federal OSHA's automated system.

State the customer's name, e.g. Mr./Ms. Doe or To Whom it May Concern,

Your message to federal OSHA was redirected by the Automated Federal OSHA System to the NC Department of Labor (NCDOL), Occupational Safety and Health (OSH) Division for response by the agency having jurisdiction regarding worker safety and health in the private and public sectors in North Carolina. This response constitutes an OSH Division interpretation of the specific requirements discussed and may not apply to locations outside North Carolina. Your question(s) has been restated below, followed by my response.

### B. BODY

1. Restate the Question. The original question will be restated as it was received (including any typos).
  - a. If multiple questions are posed, each question should be numbered. The response should be placed directly under the related question, followed by the next question and response.
  - b. In some cases, depending on how the writer outlined the question, it may be useful to break the email correspondence into a "scenario" followed by a question or multiple questions.
2. Respond. The response should concisely and directly answer the question, whenever possible. Appropriate references and resources should be provided when applicable.

- a. Reference Sources. During the response, it is important to reference the sources used in the responses, which may include an excerpt from a standard, an enforcement procedure, or an OSHA letter of interpretation, etc. Where excerpts are used, it is important to provide a link back to the larger webpage or source document. For readability, it is helpful to embed the link within appropriate descriptive words, rather than including the full web address.
- b. Provide Resources. For some inquiries it will be helpful to provide resources for additional information. These may include items such as links to NCDOL Safety and Health Topic Pages, OSHA eTools, the OSH Training Calendar, or other publications or educational materials. For readability, it is helpful to embed the link within the title of the referenced site or document, rather than including the full web address.

## C. CLOSING

Standards Officers will use language similar to the following excerpt for the closing paragraph.

Please feel free to contact Ask OSH ([ask.osh@labor.nc.gov](mailto:ask.osh@labor.nc.gov)) if you need assistance regarding workplace safety and health requirements in North Carolina. If you have any further questions, feel free to contact me.

## D. EXAMPLE RESPONSE

This response is one example including most of the previously outlined elements.

Mr. Doe,

Thank you for contacting the Occupational Safety and Health (OSH) Division of the North Carolina Department of Labor (NCDOL). This response constitutes an OSH Division interpretation of the specific requirements discussed and may not apply to locations outside North Carolina. Your question(s) has been restated below, followed by my response.

**Scenario:** A nurse consultant recently recommended that we install an eyewash station in a freestanding family care practice--i.e., a physician office--because she saw single 3-ounce bottle of 3% hydrogen peroxide solution in the clean supply room. The SDS doesn't specify the pH of the product, but internet searches reveal that it is typically in the 4.0 to 5.0 range. The SDS does say that eyes should be flushed for 15 minutes if they are exposed to the product. As the safety director, I am committed to providing safe workplaces. But I also want to make sure we are directing funds where they can best be applied for both safety and compliance. The term "injurious caustic" (1910.151(c)) is somewhat nebulous and non-specific.

**Question:** What sort of guidance or criteria can I put in our safety manual to be applied throughout the organization to determine when an eyewash unit must be provided? It is daunting to me to think that NC-DOL would require an eyewash in an

area that uses such a small quantity of a common household product just because the manufacturer recommends a 15-minute flush upon eye exposure. Again, I want to do what is right and what provides the greatest degree of compliance and practicable safety, but I want to make it easy for managers and supervisors to understand.

**Response:** In addition to a chemical property such as acidity or alkalinity, as measured by pH, other factors have to be considered in determining the need for an emergency eyewash station. Such factors include: how the chemical is being manipulated; the quantity of chemical involved; whether a suitable water source for flushing the eyes is close by; whether appropriate eye protection is worn; at what level is the chemical used relative to the eyes; etc. The NC OSH [Operational Procedure Notice \(OPN\) 143](#) discusses suitable facilities for quick drenching of the eyes or body, one of which is a faucet-mounted eyewash unit.

Regarding what characterizes a chemical as “injurious corrosive,” this question is addressed in Section A.3.3 of [Appendix A - Health Hazard Criteria](#) of 29 CFR 1910.1200 (Hazard Communication) wherein Subsection A.3.3.1 states the following:

A.3.3.1 Existing human and animal data should be the first line of analysis, as they give information directly relevant to effects on the eye. Possible skin corrosion shall be evaluated prior to consideration of serious eye damage/eye irritation in order to avoid testing for local effects on eyes with skin corrosive substances. *In vitro* alternatives that have been scientifically validated and accepted shall be used to make classification decisions. Likewise, pH extremes like  $\leq 2$  and  $\geq 11.5$ , may indicate serious eye damage, especially when associated with significant buffering capacity. Generally, such substances are expected to produce significant effects on the eyes. In the absence of any other information, a mixture/substance is considered to cause serious eye damage (Eye Category 1) if it has a pH  $\leq 2$  or  $\geq 11.5$ . However, if consideration of acid/alkaline reserve suggests the substance may not have the potential to cause serious eye damage despite the low or high pH value, then further evaluation may be necessary. In some cases enough information may be available from structurally related compounds to make classification decisions.

Additional information regarding eye and face protection can also be found through the [NCDOL](#) and [OSHA](#) eye and face protection safety and health topic pages.

Please feel free to contact Ask OSH ([ask.osh@labor.nc.gov](mailto:ask.osh@labor.nc.gov)) if you need assistance regarding workplace safety and health requirements in North Carolina. If you have any further questions, feel free to contact me.

Regards,

Standards Officer Name