

Chemical Hygiene Committee Compliance Policy

Approved: October 26, 2005

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The Chemical Hygiene Committee aims to work cooperatively with Principal Investigators and laboratory workers to achieve compliance with University safety policies, the Chemical Hygiene Plan, and governmental regulations. From time to time, however, it may be necessary when cooperation fails to impose sanctions to achieve compliance. This policy is designed to ensure compliance through a system of phases that applies increasing pressure on a Principal Investigator to take the appropriate corrective actions. The Chemical Hygiene Committee, in conjunction with the Provost, has the authority to modify this policy at any time.

While the four-tiered procedure is designed to provide a progressive compliance process, it may be bypassed in the event of an imminent safety condition, including a condition that is Immediately Dangerous to Life and Health (IDLH). Any such findings or conditions will be immediately addressed, then reported to the Chemical Hygiene Committee for review at the discretion of EHS. This may result in suspending laboratory activities (in whole or in part).

The identification process and tiers are defined below and depicted in the Escalation Process Flow Chart.

CATEGORIES OF INSPECTION FINDINGS

Immediate or Imminent Hazard (Category 1 Deficiency)

Immediate or Imminent Hazards include a finding or condition that creates a possibility of death, serious adverse health effects, or prevents escape from such a condition or circumstance. This includes conditions classified as Immediately Dangerous to Life and Health (IDLH). An imminent finding can also include the failure to meet a regulatory requirement or any condition or practice that could reasonably be expected to immediately cause death, serious physical harm, significant property loss, or substantial environmental damage unless the condition is addressed immediately. An imminent finding or condition requires immediate corrective action or activity suspension (i.e., shutdown) as necessary.

Procedures for responding to immediate or imminent hazard findings:

- Certain Laboratory Inspection Checklist findings can represent an immediate hazard or practice. If the finding, condition, or practice noted is determined to be of this nature, the finding is indicated on the inspection report.
- The inspector must inform the lab representative when they observe a hazard or practice presenting a serious matter that should be addressed immediately. Educate the representative or Principal Investigator (PI)/Responsible Party (RP) on what safety policy, rule, or best management practice has been violated.
- The inspector will record the issue on the inspection report as an imminent hazard finding.
- The inspector must inform the lab representative participating in the survey that any operations or conditions considered imminent hazards cease immediately.

- The inspector immediately reports the observations of an imminent hazard, including photographs (if applicable), to the Chemical Hygiene Officer and EHS leadership.
- Unless directed by the Chemical Hygiene Officer or EHS leadership, the inspector takes no other action.
- The PI/RP and their Department Chair are informed by EHS of the imminent hazard, the necessary corrective actions, and timeframe expectations.
- With the support of the EHS Director, Department Chair, Dean, or Provost, it may be necessary to jump to a TIER 3 escalation process and close the space if mitigation or corrective action is not taken within a reasonable amount of time. This step is anticipated to be rare.

General to Serious Hazards (Category 2 Deficiency)

General to Serious Hazards include a finding or condition that does not qualify as imminent in nature but still concerns worker health or safety or present a significant hazard to health and safety and, if allowed to continue, could become an imminent hazard. These findings can also include the need to meet a regulatory requirement. These findings are typically identified during routine inspections via an inspection checklist (denoted by a 1-point or 2-point finding) and communicated to the PI/RP as a report available electronically within two business days of the notation.

The procedure for responding to General/Serious Hazard deficiencies is listed below (TIER 0)

1.1 STANDARD RESOLUTION PROCESS – TIER 0

When a deficiency is identified by the Department Safety Committee or EHS, the following steps are taken:

1. Educate the user, Principal Investigator (PI), or Responsible Party (RP) on what safety policy, rule, or best management practice has been violated. Provide information on why the issue is a violation and recommend a course of action to correct the deficiency.
2. An attempt will be made to correct the deficiency immediately.
3. If the deficiency is not or cannot be immediately corrected, the PI/Responsible Party is informed within two business days.
4. The deficiency is noted on the Laboratory Inspection Form, which is sent to the PI/RP and the Department Safety Committee, if necessary.
5. The PI/RP is granted 30 calendar days to take corrective action.
6. EHS will review responses for acceptance and “Finalize” the report.
7. Inspection reports not completed within 30 calendar days are sent to the Department Chair. Department Chair alerts PI/RP of inspection report escalation and reminds PI/RP to resolve within 15 calendar days.
8. EHS will review responses for acceptance and “Finalize” the report.
9. Inspection reports not finalized within 45 calendar days shall be reported by the initial inspector to the University Chemical Hygiene Officer (CHO) within two (2) business days. If required, the CHO will initiate the TIER 1 escalation process which will then involve the Dean or Head of Units.

1.2 TIER ONE ESCALATION PROCESS

The Chemical Hygiene Officer (CHO) will provide the Chemical Hygiene Committee (CHC) Chair with a regular report that lists safety findings that qualify for consideration for escalation. Issues that require consideration include, but are not limited to, the following:

- The PI/RP does not take action to resolve an inspection finding/report within 45 calendar days.
- The PI's/RP's response to an inspection finding/report is deemed unsatisfactory by the Chemical Hygiene Officer.
- The same (or similar) deficiency is noted within 12 months of a previous inspection report, including general findings (i.e., repeat findings).
- Laboratory consistently (two consecutive years) does not meet overall safety performance expectations (score of at least 65%).
- Findings have been noted due to a recently reported incident or accident.

Note: Corrections that require infrastructure upgrades will be considered on a case-by-case basis, and interim risk mitigation strategies may be approved by EHS, or the Chemical Hygiene Committee (or a subcommittee consisting of, at a minimum, the CHC Chair, the CHO, and a third committee member to be appointed by the Chair) and the EHS Director.

If one of the above qualifying issues has been identified, the EHS CHO or CHC Chair may move to issue a Tier One Memorandum or defer issuance of the memorandum. If either wishes to defer, they must establish a rationale for deferring issuance and set a time for re-evaluation.

A Tier One Memorandum will be sent by the EHS Director/CHO or CHC Chair to the PI/RP, their department Chair, and the Dean or Head of the Unit, informing them of the noncompliance issue(s) and the potential for suspension of operations if the issue is unresolved. The memorandum will detail the item(s) of noncompliance and provide a new timeframe for implementing corrective action (for general findings: 30 calendar days or less as determined by EHS).

A written response to the Tier One Memorandum is required. The response should contain details regarding the corrective action or plans to take corrective action. Failure to respond within the stated period may escalate the memorandum level to Tier Two. Lack of corrective action within the prescribed problem-resolution period following a Tier One Memorandum may result in the issuance of a Tier Two Memorandum. If the EHS Director, CHO, or CHC Chair wishes to defer the issuance of a Tier Two Memorandum, either must establish a rationale for deferring issuance and set a time for re-evaluation.

Should the item(s) of concern be corrected within the specified timeframe, EHS or the CHC Chair will issue a Resolution Memorandum indicating that corrective action has been taken and verified by EHS. Since EHS must verify corrective action, labs should provide sufficient time for EHS to respond to claims of corrective action (two business days).

1.3 TIER TWO ESCALATION PROCESS

A Tier Two Memorandum will be sent to the PI/RP, their department Chair, and the Dean or Head of the Unit, informing them of the noncompliance issue(s) and the potential for suspension of operations. This notice will be sent to the PI/RP, informing them that this is an item of noncompliance that still needs to be resolved in response to the Tier One Memorandum. The PI/RP, or their designee, must provide a formal written response to EHS and the

CHC Chair as to the reasons for a second instance of noncompliance and why the previous corrective action(s) was/were ineffective, and what further corrective action(s) will be implemented to prevent a recurrence. In addition, the PI/RP will be asked, along with their department Chair, to appear before the Chemical Hygiene Committee (CHC) to discuss the proposed corrective action plan. The CHC will offer recommendations and additional requirements to the PI/RP to ensure future compliance.

Failure to respond within the stated period (for general findings, 15 calendar days or less as determined by EHS) may escalate the memorandum level to Tier Three. Lack of corrective action within the prescribed problem-resolution period following a Tier Two Memorandum will result in the CHC (Chair) issuance of a Tier Three Memorandum. If the Committee wishes to defer escalation to Tier Three, it must establish a rationale for postponing a recommendation and set a time for re-evaluation.

Should the item(s) of noncompliance be corrected within the specified timeframe, the CHC Chair will issue a Resolution Memorandum indicating that corrective action has been taken and verified by EHS. Since EHS must verify corrective action, labs should provide sufficient time for EHS to respond to claims of corrective action (two business days).

1.4 TIER 3 ESCALATION PROCESS

The Chemical Hygiene Committee will review cases where safety issues are not resolved following a Tier Two Memorandum. The Committee has the authority to suspend, revoke, and terminate activities that pose an unacceptable risk to life or safety. In this event, the Committee (Chair) will issue a Tier Three Memorandum.

In the case of an imminent finding or condition that is IDLH which has been identified by EHS, specific activities, area usage, or lab operation may have already been suspended before notifying the Committee of the situation. EHS is responsible for reporting this item to the Committee for issuing a Tier Three Memorandum.

A Tier Three memorandum will be sent to the PI/RP, the department Chair, the department Dean or Head of Unit, and University leadership, as needed, in coordination with the EHS Director, the Vice President of Research, Scholarship and Innovation (VPRSI), and the Provost. The notice will inform them of noncompliance and suspension of the PI/RP operations until corrective action is taken.

Decisions to suspend, revoke, or terminate the right to operate may be appealed to the Provost and VPRSI. The Provost and VPRSI will decide on the course of action following consultation with the Director of EHS and will provide authority and instruction on enacting suspensions. During the suspension period, the PI/RP and Department Chair will be instructed to appear before the CHC to present a formal written corrective action plan and explain why the operation should be reinstated.

Should the item(s) of noncompliance be corrected within the specified timeline, the CHC Chair will issue a Resolution Memorandum indicating that corrective action has been taken and verified by EHS. Since EHS must verify corrective action, labs should provide sufficient time for EHS to respond to claims of corrective action (two business days).

EXAMPLES OF DEFICIENCIES

Examples of **Immediate or Imminent Hazard** deficiencies include, but are not limited to:

1. Working with highly toxic chemicals, reactive material, hydrofluoric acid, or other extremely dangerous materials without proper training , specialized personal protective equipment, first-aid kits, etc.
2. Chemicals, chemical waste, or compressed gas cylinders stored or used in a manner that presents a hazard to personnel, facilities, or the environment.
3. Improper use or lack of appropriate ventilation for any operations or processes that are required to be performed with adequate ventilation.
4. Improper use or lack of appropriate engineering controls (machine guards, emergency stops, shielding, etc.) while working with any potentially explosive processes, pressurized systems, or equipment that is designed to have such engineering controls.
5. Lack of immediate access to safety showers or eyewash stations.
6. Use of any compressed gas systems without appropriate and functioning regulators, lines, or gas alarms.
7. Unsafe use of any electrical equipment, cords, or wires.
8. Unsafe use of any equipment which allows an individual to work at heights (ladders, lifts, aerials, etc.).
9. Eye protection or hearing protection not worn in designated areas.
10. Potential contamination to any source of potable water.
11. Department of Homeland Security (DHS) chemicals of interest (e.g., controlled substances) not properly stored, used, or documented.
12. An incident that results in injury, damage to University property, or would otherwise be deemed reportable.

General to Serious Hazard deficiencies include any inspection findings not listed as **Immediate or Imminent Hazard** deficiencies.

Please refer to the Laboratory Inspection guide <https://www1.udel.edu/ehs/research/chemical/laboratory-inspection.html> for more description of the above deficiencies.

