

Case Western Reserve University  
Department of Occupational & Environmental Safety  
Safety Inspection Enforcement Policy

4/1/2008

## **Purpose**

The Safety Services Office works in the interest of the university by supporting research. The structure of the program is continually refined to minimize restrictions on research activities while ensuring compliance with the requirements of all regulatory Federal, State, and Local agencies.

Compliance with Safety Services program requirements is generally very good, and we acknowledge the excellent cooperation of the research staff responsible for this success. Nonetheless, the perceived risk associated with chemicals and biologicals has provided the underpinnings for a regulatory environment that results in penalties and sanctions for any activities that suggest improper use of chemical and biological materials. Consequently, certain actions perceived by an individual to be safe or harmless may in fact result in serious consequences for the university. In other words, even a single, unintentional oversight can have serious consequences.

This enforcement policy, while having little if any effect on the activities of the vast majority of researchers using chemical and biological materials, allows us to effectively sanction those few who, albeit unintentionally, jeopardize safety or the continued favorable relationship between the university and the regulatory agencies. It is designed to encourage the participation and cooperation of researchers and to ensure safe use of such material in a manner consistent with the Federal, State, and Local rules and regulations as interpreted by the Laboratory Safety Committee and the Safety Services Office.

## **Policy**

The responsibility for safe use of chemical and biological materials is placed on the researchers as well as on the Safety Services Office and the LSC. A system of consequences for violations of regulations concerning safe use of chemical and biological materials will be used for educating and alerting the researcher, motivating the research staff, and determining future researcher authorization.

A violation will generally be identified by a member of the Safety Service Office during a routine inspection. This does not preclude violations being identified at other times or being identified through self-reporting by a researcher. Each researcher is provided a copy of the inspection report following the inspection. This will be done when deficiencies are identified.

We have simply defined two major violation classes: Imminent Danger and Immediate Fix. The specific acts that are included in a deficiency category are listed below.

This policy will become effective on April 3, 2008 and will not be retroactive.

Any notifications or other actions associated with this policy must be reviewed and approved before implementation.

## **Appeal Process**

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Researchers will have the opportunity to appeal a decision made either by the Safety Services Office or by the LSC. The appeal will be a formal written response from the researcher to the Safety Services Office who will, in consultation with appropriate LSC members, consider the appeal.

The appeal must be received by the Safety Services Office within five working days of receipt by the researcher of the notice of violation. The appeal will be acted on and the researcher notified of the results within five working days of the receipt of the appeal by the Safety Services Office.

#### Enforcement

Spills and accidents are not violations unless they are the result of failure to comply with regulations and/or conditions of a researcher's approved Chemical Hygiene and Exposure Control Plans.

### **Violations considered an imminent danger – Stop now!**

Incorrect laboratory process (boiling/ distilling in hood yet hood not functioning properly)

Dangerous fumes/fire from chemicals (bubbling)

Regulated chemical being used sans proper engineering controls (i.e. on bench top)

Using chemicals outside a fume hood

Diethyl ether, Acetone, and Isopropanol have Flashpoint lower than room temperature, Flammable therefore, must be kept in hood. Vapors can reach an ignition source if outside the hood.

Hydrofluoric Acid (HF) must be used in chemical hood. Incompatible with glass.

Electrical trip hazards from cords on floor

High voltage equipment must be locked out, tagged, or confirmed disconnected from power

Sharps out on bench tops (razors, uncapped syringes, etc.)

Improper labeling of waste (disposal of waste in the wrong receptacle)

Improper Storage

Flammables in the regular refrigerators

Dispose of Expired Ethers, dried Picric acid and dried Perchloric acid. Any violence with these puppies around can ruin your whole day!

No storage of chemical/ waste on floor

Lack of primary PPE, including eye protection, lab coat, gloves, improper shoe ware or clothing and proper use

Using laser w/o goggles, x-ray equipment w/o shield, machines w/o guarding

Physical harm – body damaged

Failure to wear eye protection

Wearing an N95 respirator without authorization, training or fit testing

Reasonable expectation that toxic substances will cause physical/ mental concern

Segregate incompatibles (acids/ bases/ oxidizers/ flammables

Oxidizers should not be stored with flammables, organics, and combustibles (peroxides, nitrates, chlorates, perchlorates)

Peroxide forming materials, Tetrahydrofuran vinyl ethers, Acrylonitrile Styrene, Ammonium Perchlorate,

Hydrogen Peroxide (>30%) are all shock sensitive materials and should be stored separately and away from heat, sunlight, and sources of ignition.

Gas Cylinders not secured

Gas cylinders secured over an electrical conduit

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**Violations needing Immediate Correction – Fix Now!**

Incorrect laboratory process (boiling/ distilling in hood yet hood not functioning properly)  
Threat of danger within a short period of time  
Improper shipping of hazardous materials (incorrect packaging/ labeling/ paperwork). DOT Training is required.  
Mislabelled food container with hazardous chemical inside  
No eating, drinking, smoking, chewing gum, or applying cosmetics in the laboratory  
Falsification of records (chemical hygiene and exposure control plans, training)  
Improper Storage  
Too many chemical containers within a hood  
No hazardous chemicals under sink  
No hazardous chemical liquids at or above eye level  
Obstructed access to eyewash/ safety shower/ fire extinguisher/ electrical panels/ emergency exits  
Eyewash station/ safety shower in laboratory not certified  
Portable stations strongly discouraged

A major violation will result in:

Immediate verbal notification of the researcher by the Safety Services Office.

Written notification sent to the researcher by the Safety Services Office with copies sent to the researcher's department chair and to the LSC chairperson.

Suspension of laboratory practices until the item is resolved to the satisfaction of the Safety Services Office and the LSC chairperson.

Possible suspension of authorization to use chemical or biological materials and equipment, at the discretion of the Safety Services Office pending review by the LSC.

Possible termination of authorization to use chemical or biological materials and equipment based on a majority vote of the LSC and concurrence of the Department Chairman and Provost.

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

OSHA Act of 1970

SEC. 13. Procedures to Counteract Imminent Dangers

(a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete

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cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

(d) If the Secretary arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employees, might bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the employer has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Secretary to seek such an order and for such further relief as may be appropriate. 29 USC 662

**Definition.**

Section 13(a) of the Act defines imminent danger as "...any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act."

**Requirements.** The following conditions must be met before a hazard becomes an imminent danger:

There must be a threat of death or serious physical harm. "Serious physical harm" means that a part of the body is damaged so severely that it cannot be used or cannot be used very well.

For a health hazard there must be a reasonable expectation that toxic substances or other health hazards are present and exposure to them will shorten life or cause substantial reduction in physical or mental efficiency. The harm caused by the health hazard does not have to happen immediately.

The threat must be immediate or imminent. This means that you must believe that death or serious physical harm could occur within a short time, for example before OSHA could investigate the problem.

If an OSHA inspector believes that an imminent danger exists, the inspector must inform affected employees and the employer that he is recommending that OSHA take steps to stop the imminent danger.

OSHA has the right to ask a federal court to order the employer to eliminate the imminent danger.

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