

U.S. Department of Energy
Oak Ridge Office
Office of Environmental Management
Procedure

**Noncompliance Tracking System (NTS)
Report Closure Review Process**

EM-2.6
Revision 0

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EM Environmental Management

safety ✦ performance ✦ cleanup ✦ closure

TABLE OF CONTENTS

ACRONYMS LIST3

1.0 PURPOSE.....4

2.0 SCOPE4

3.0 REFERENCES AND DEFINITIONS.....4

3.1. References.....4

3.2. Definitions.....5

4.0 RESPONSIBILITIES6

4.1 Assistant Manager for Environmental Management/Deputy Assistant Manager6

4.2 Enforcement Coordinator6

4.3 Directors.....6

4.4 Lead Reviewer.....6

4.5 EM Staff/Oak Ridge Office Support Reviewers6

5.0 PROCEDURE7

6.0 RECORDS8

7.0 ATTACHMENTS8

Attachment 7.1- Noncompliance Tracking System (NTS) Report Closure Review9

Attachment 7.2 - Guidance Document for Noncompliance Tracking System (NTS) Report Closure Review.....10

ACRONYMS LIST

AMEM	Assistant Manager Environmental Management
CAPS	Corrective Action Plans
DOE	Department of Energy
EC	Enforcement Coordinator
EM	Environmental Management
EOC	Extent of Condition
NTS	Noncompliance Tracking System
OE	Office of Enforcement
ORO	Oak Ridge Operations
ORPS	Occurrence Reporting Processing System
PNOV	Preliminary Notice of Violation
PAAA	Price Anderson Amendment Act
SAB	Safety Attainment Board
SSISMS	Safeguards and Security Information Management System

1.0 PURPOSE

This procedure establishes the process to be used by Department of Energy (DOE) Environmental Management (EM) staff and Oak Ridge Office (ORO) personnel supporting EM to fulfill the DOE Field Element responsibilities with respect to the DOE Enforcement Program Noncompliance Tracking System (NTS) report closure as it applies to contractors managed by EM.

2.0 SCOPE

This procedure applies to all ORO EM divisions, programs, and projects.

The Office of Enforcement has some discretion in pursuing enforcement actions for many conditions that are contractor identified, receive timely and effective corrective actions, and are properly reported to DOE. Such conditions include certain events listed in Occurrence Reporting and Processing System (ORPS), Security Incident Notification Reports, as well as other management issues. NTS and Safeguard and Security Information Management System (SSIMS) are the mechanisms available to the DOE contractors for reporting events directly to DOE. The NTS is a centralized database maintained by DOE Office of Enforcement that allows contractors to voluntarily report noncompliances with requirements of the referenced Federal Regulations and take advantage of the DOE Enforcement Policy's mitigation provision.

The ORO Office of Security and Emergency Management, Materials Control and Accountability and Information Security Branch monitors contractor Security Incident Notification Reports relating to classified information that are entered into the SSIMS system.

3.0 REFERENCES AND DEFINITIONS

3.1. References

- 3.1.1 CFR 820*, *Procedural Rules for DOE Nuclear Activities*
- 3.1.2 10 CFR 824*, *Procedural Rules for the Assessment of Civil Penalties of Classified Information Security Violations*
- 3.1.3 10 CFR 830, *Nuclear Safety Management*
- 3.1.4 10 CFR 830 Subpart A, *Quality Assurance Requirements*
- 3.1.5 10 CFR 830 Subpart B, *Safety Basis Requirements*
- 3.1.6 10 CFR 835, *Occupational Radiation Protection*
- 3.1.7 10 CFR 851*, *Worker Safety and Health Program*
- 3.1.8 10 CFR 708, *DOE Contractor Employee Protection Program*
(“Whistleblower” Protection)
- 3.1.9 Enforcement Program Overview (Guidance), US Department of Energy, Office of Enforcement, December 2007 (NTS HQ EPO 1207)
- 3.1.10 Office of Health, Safety, and Security Guidance, *DOE Enforcement Process Overview*, December 2007

3.1.11 DOE O 226.1A, *Implementation of the Department of Energy Oversight Policy*

3.1.12 DOE M 470.4-1, *Incidents of Security Concern*

*Note: Specific Enforcement Program policies are contained in these regulations.

3.2. Definitions

3.1.1 Noncompliance - A noncompliance with a nuclear safety requirement or a commitment in an approved Rule implementation plan. The terms noncompliance and violation are essentially interchangeable in that both terms indicate a failure to comply with an applicable nuclear safety requirement.

Violation usually is used in situations where failure to comply is greater than in situations where failure to comply is less serious. For example, non-compliances usually do not result in an enforcement action, while violations may result in a -preliminary notice of violation (PNOV). Choice of violation or non-compliance is subjective and is an attempt to convey an opinion of the degree to which a rule was not complied with.

3.1.2 Reportable Noncompliance - A noncompliance with a nuclear safety requirement. An NTS reportable noncompliance is one that meets or exceeds the threshold values established by the Office of Enforcement.

3.1.3 NTS – Noncompliance Tracking System – The electronic database administered by the Office of Enforcement (OE) for the reporting and tracking of noncompliance to the nuclear safety rules which meet the criteria set forth by OE and corrective actions

3.1.4 SSIMS – The Safeguards and Security Information Management System is a centralized database to coordinate, analyze, and archive incidents of security concern and other security issues. These incidents are events that, at the time of occurrence, have yet to be determined to be a violation of law, but that are of such concern to the safeguards and security program as to warrant immediate reporting, review, inquiry, and subsequent assessment.

3.1.5 Effectiveness Review - Effectiveness reviews are performed to verify the effectiveness of corrective actions implemented to prevent the recurrence of significant issues, problems, or events. Effectiveness is measured by a significant change in one or more of these four measures:

- (1) the probability of the original event recurring
- (2) the frequency of the problem recurring
- (3) reduction in the magnitude or severity of the problem
- (4) elimination of the original problem

4.0 RESPONSIBILITIES

4.1 Assistant Manager for Environmental Management/Deputy Assistant Manager

The Assistant Manager for Environmental Manager (AMEM)/Deputy Assistant Manager are responsible for program implementation and provide resources for execution.

4.2 Enforcement Coordinator

- 4.2.1** Serves as the Environmental Management (EM) Enforcement Coordinator and single point of contact with OE and senior management for all enforcement issues associated with the EM contractors.
- 4.2.2** Notifies appropriate Director when an NTS Report is filed by the contractor in their area of responsibility. Director provides name of lead reviewer.
- 4.2.3** Notifies and approves adequacy from Directors and Lead Reviewer assignments.
- 4.2.4** Ensures NTS Reports are tracked to closure.
- 4.2.5** Provides monthly NTS system status report to AMEM, Deputy AMEM, and Directors. The report shall include at a minimum, identification of all open EM NTS reports, estimated completion dates for the reports (based on contractor's corrective action plans) including age of reports awaiting EM closure actions.
- 4.2.6** Ensures the Oak Ridge Operations "recommendation for closure" is entered into the NTS system.
- 4.2.7** Ensures documentation of DOE EM review is maintained in the EM records management system.

4.3 Directors

- 4.3.1** Assigns staff members as lead and support reviewers for each NTS Report and notifies Enforcement Coordinator of assignments.
- 4.3.2** Notify Enforcement Coordinator when reports are ready for recommendation to Office of the Enforcement for closure.
- 4.3.3** Recommends approval to Enforcement Coordinator of the EM Field Office entry into the NTS system.

4.4 Lead Reviewer

- 4.4.1** Reviews initial NTS Reports, associated root cause analysis, extent of condition review necessary, and corrective action plan as the contractor develops them. The reviews are intended to help assure successful issue closure upon completion of the action plan.
- 4.4.2** Coordinates document reviews with support reviewers as appropriate.
- 4.4.3** Completes the Noncompliance Tracking System (NTS) Closure Review (Attachment 7.1.) following the Guidance Document (Attachment 7.2).

4.5 EM Staff/Oak Ridge Office Support Reviewers

- 4.5.1. Actively participate in meeting and document reviews to identify and resolve issues as assigned.
- 4.5.2. Contribute input to enable completion of the Closure Review Form.
- 4.5.3. Advise Director and Enforcement Coordinator of potential NTS reporting issues.

5.0 PROCEDURE

- 4.1 Follow the EM Noncompliance Tracking System (NTS) Report Closure Review Process (Attachment 7.1) using the guidance provided in Guidance Document in Attachment 7.2.
- 4.2 The DOE Enforcement Program is administered and conducted by the HS-40 organization. However, the NTS system includes a section for the DOE.
- 4.3 Field Element to provide input, including a recommendation for closure of the issue initially reported by the contractor. Typically, HS-40 will not close an NTS report until they receive a recommendation for closure from the Field Element.
- 4.4 Consistent with DOE O 226.1A (Reference 3.1.11), DOE line management has the responsibility to (1) ensure contractor compliance with requirements, (2) ensure the adequacy of contractor assurance systems, and (3) evaluate contractor performance. The DOE reviews related to contractor NTS reporting conducted by EM staff and support personnel should be conducted in the context of these DOE line management responsibilities.
- 4.5 With respect to many noncompliances, an Enforcement Letter (or other enforcement action) issued by HS-40 may not be required. When HS-40, in consultation with EM, decides that a contractor has appropriately corrected a noncompliance or that the significance of the noncompliance is sufficiently low, it may close out its review simply through an annotation in the DOE Noncompliance Tracking System (NTS). A closeout of a noncompliance with or without an Enforcement Letter may only take place after DOE has confirmed that corrective actions have been completed.
- 4.6 Following Enforcement Program guidance regarding corrective actions, consideration should be given to, among other things, the appropriateness, timeliness, and degree of initiative associated with the corrective action. The comprehensiveness of the corrective action should also be considered, taking into account factors such as whether the action is focused narrowly to the specific violation or broadly to the general area of concern. In all cases, corrective actions should be effective in correcting problems identified through causal analysis and where appropriate, through an extent of condition review by the contractor.

- 4.7 There is a clear expectation from the DOE Enforcement Program that contractors report noncompliances with the referenced Federal Regulation requirements that exceed prescribed reporting thresholds. However, NTS reporting is “voluntary,” and timely self-reporting of noncompliances and aggressive corrective actions may result in some mitigation of subsequent enforcement actions. As EM staff and support personnel review the contractor actions to address the reported noncompliance, the extent of DOE involvement in identifying the noncompliance and prompting the contractor to take appropriate actions should be noted in the ultimate recommendation for closure entered into the NTS system.
- 4.8 Corrective Actions – Investigations, causal analyses and development of corrective actions should typically be completed within
- 45 days of indentifying the noncompliance for nuclear and worker safety and health
 - 60 days after determining a security incident has occurred

6.0 RECORDS

- 6.1 Records generated as a result of implementation of this procedure include completed NTS Report Closure Review Forms (Attachment 7.1).
- 6.2 Records shall be maintained in accordance with the established ORO EM Record Management System.

7.0 ATTACHMENTS

- 7.1 Noncompliance Tracking System (NTS) Report Closure Review Form
- 7.2 Guidance Document for Noncompliance Tracking System (NTS) Report Closure Review

Attachment 7.1- Noncompliance Tracking System (NTS) Report Closure Review

NTS # NC ID# NTS Report Title:		
Evaluation Criteria	Evaluation Results (Yes/No)	Comments or Questions
Is the NTS Report complete and accurate?		(Fill In Block)
Was a Root Cause Analysis performed?		
Is the Root Cause Analysis comprehensive?		
Was an Extent of Condition Review Performed?		(Fill In Block)
Was the Extent of Condition Review comprehensive?		
Do the Corrective Actions fully address the Noncompliance, including the Root Cause and findings from the Extent of Condition Review?		
Does the evidence presented by the contractor clearly show that the corrective actions taken resolve the problems for which they were intended?		(Fill In Block) For Example, if the procedure is to be changed then the changed procedure accompany the closure package evidence file.
Were the Corrective Actions completed according to the prescribed schedule?		
If the Corrective Actions and corresponding schedules were revised, was justification provided?		
Was an Effectiveness Review completed to confirm that the Corrective Actions resolved the original issue to prevent recurrence?		(Fill In Block)
NTS Report Closure Recommendation		(Fill In Block)

 Lead Reviewer
 (Preparer)

 Date

 Director
 (Concur)

 Date

 EM Enforcement Coord. Date
 (Recommended Approval to OE)

Attachment 7.2 - Guidance Document for Noncompliance Tracking System (NTS) Report Closure Review

NTS # NC ID # NTS Report Title:		Overall guidance: Review/scan all the material – don't get bogged down – answers overlap. Using the overview, focus on key points to verify. Follow your intuition. Does it make sense? What, if anything, would you do differently? A 100% solution is not as important as 90% with continuing improvement.
Evaluation Criteria	Evaluation Results (Yes/No)	Comments or Questions
Is the NTS Report complete and accurate?		How was the issue identified? Was the NTS Report updated as additional information was identified? Compare the NTS Report to the ORPS.
Was a Root Cause Analysis performed?		
Is the Root Cause Analysis comprehensive?		1. Does it make sense? Can you understand the event? 2. Are causes, which can be corrected, identified? 3. Does it explore all reasonable approaches (design, process, procedure, training, management, etc.)? 4. Were recognized causal analysis processes used? 5. Was the investigation thorough? 6. Was the RCA conducted in accordance with company processes by qualified individuals? 7. Was the RCA and CAP reviewed and approved by Line Management?
Was an Extent of Condition Review Performed?		If an Extent of Condition Review was not performed, was justification provided? Where appropriate, the extent of condition review should be performed before the causal analysis. The EOC review should address applicability and significance of the subject issue(s). (i.e. where issues apply and how significant those issues appear to be)
Was the Extent of Condition Review comprehensive?		Areas to be covered as part of an effective EOC review will vary with the specifics of the identified problem, but generally include the following: · looking for the same problem in applications, locations or facilities other than where originally found; · looking for other manifestations of the identified root or underlying causes of the problem; · looking for similar or related problems, or problems that can be anticipated based on the identified problem; · reviewing prior applications of the deficient process or procedure to see if earlier deficiencies had gone unnoticed.
Do the Corrective Actions fully address the Noncompliance, including the Root Cause and findings from the Extent of Condition Review?		Generally, the corrective action plan has a crosswalk to the RCA. Formal linkages are not required and some actions overlap. Procedure changes should link to issues identified. Site-wide procedures should be checked. DSA and TSR changes should be approved by DOE and fully implemented prior to CA completion. Training should be documented in accordance with contractor processes, with lesson plans or presentation materials and class attendance rosters. Submission of a Lessons Learned document is generally expected.
Were the Corrective Actions completed according to the prescribed schedule?		If the contractor has a pattern of slipping the schedule of NTS corrective actions, it could indicate inadequate senior management support. If so, DOE should comment. Otherwise, it is up to the contractor to demonstrate their actions are "timely and effective."
If the Corrective Actions and corresponding schedules were revised, was justification provided?		Did the justification provide a sound basis for the changes and reflect appropriate management level involvement in the decision?

<p>Was an Effectiveness Review completed to confirm that the Corrective Actions resolved the original issue to prevent recurrence?</p>		<p>A contractor effectiveness review should be scheduled after the corrective action(s) is completed and has had time to take effect. (Although this is voluntary for the contractor). There should be adequate time for opportunities to challenge implementation of the corrective action or for the problem to reoccur. This could be as soon as one month or as long as one year after implementation. It is anticipated that most, but not all, effectiveness reviews can be conducted within approximately six months after implementation of the corrective actions designated to prevent recurrence. The responsible contractor manager may decide to do a mid-point review of the effectiveness of corrective actions. This approach is useful for large, multi-step actions or lengthy sets of corrective actions. The review may identify whether conditions are improving or worsening and allow for midcourse corrections. Was the Effectiveness Review comprehensive? Was the timing of the review sufficient to provide reliable conclusions? (Follow-up assessments are for the benefit of contractor management to assist in their efforts to prevent recurrence. Follow-up assessments may not always be appropriate, or provide useful information. Validation reviews are not the same as effectiveness reviews, however they may be of value. Note: The DOE closure review is primarily a validation review aided by a broad view perspective of what historical approaches have been effective.)</p>
<p>NTS Report Closure Recommendation</p>		<p>Provide a summary of the evaluation and justification for the closure recommendation. (The overall message being conveyed by the evidence should be considered. Positive activities should be noted to reinforce the behavior. Deficiencies or weaknesses should be related to the potential for event/issue recurrence. The Field Office closure input can be used to warn the contractor that a "too limited" resolution was taken while still recommending closure of the specific NTS Report.</p>