



2024 DOE Safety and Security
New Enforcement Coordinator Workshop

WELCOME!

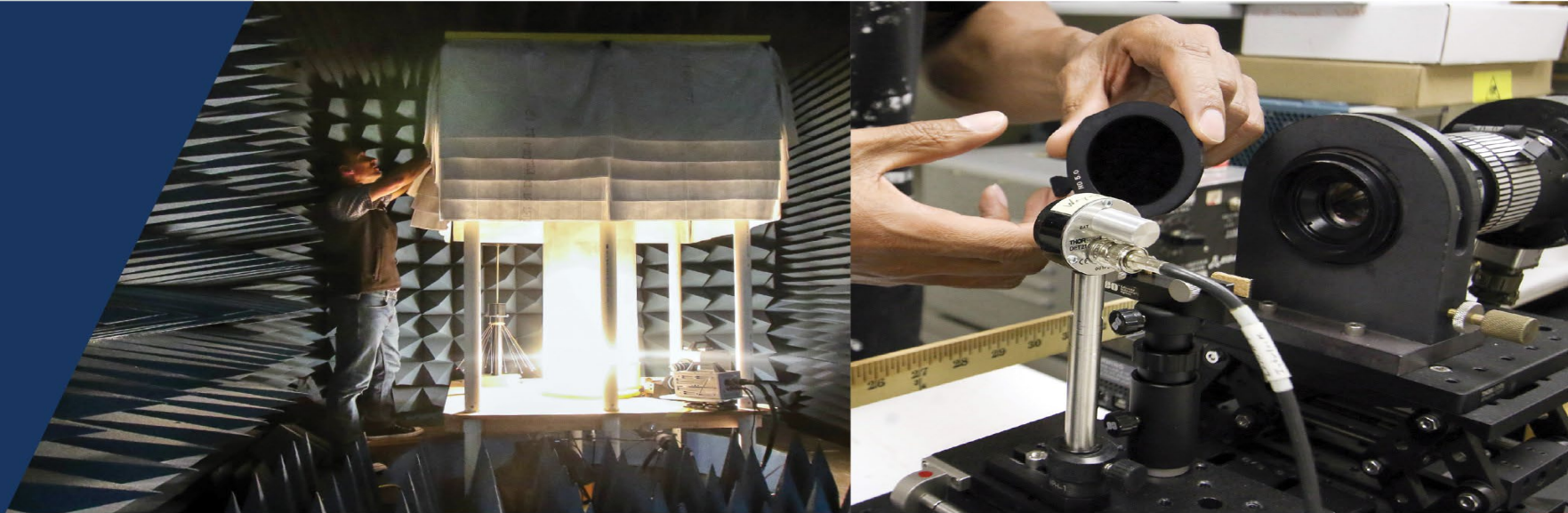
**Anthony Pierpoint
Director
Office of Enforcement
Office of Enterprise Assessments**

Agenda

May 6, 2024

1:00 – 1:15	Introduction to the Office of Enforcement and the Office of Enterprise Assessments	Anthony Pierpoint Director Office of Enforcement
1:15 – 2:00	DOE's Safety and Security Regulatory Framework and Roles and Responsibilities of Enforcement Coordinators	Shannon Holman Director Office of Worker Safety and Health Enforcement Jacob Miller Director Office of Nuclear Safety Enforcement
2:00 – 3:00	Enforcement Investigation Process	Robin Keeler Deputy Director Office of Enforcement
3:00 – 4:00	Q&A - Open Discussion	Anthony Pierpoint Director Office of Enforcement

May 6, 2024

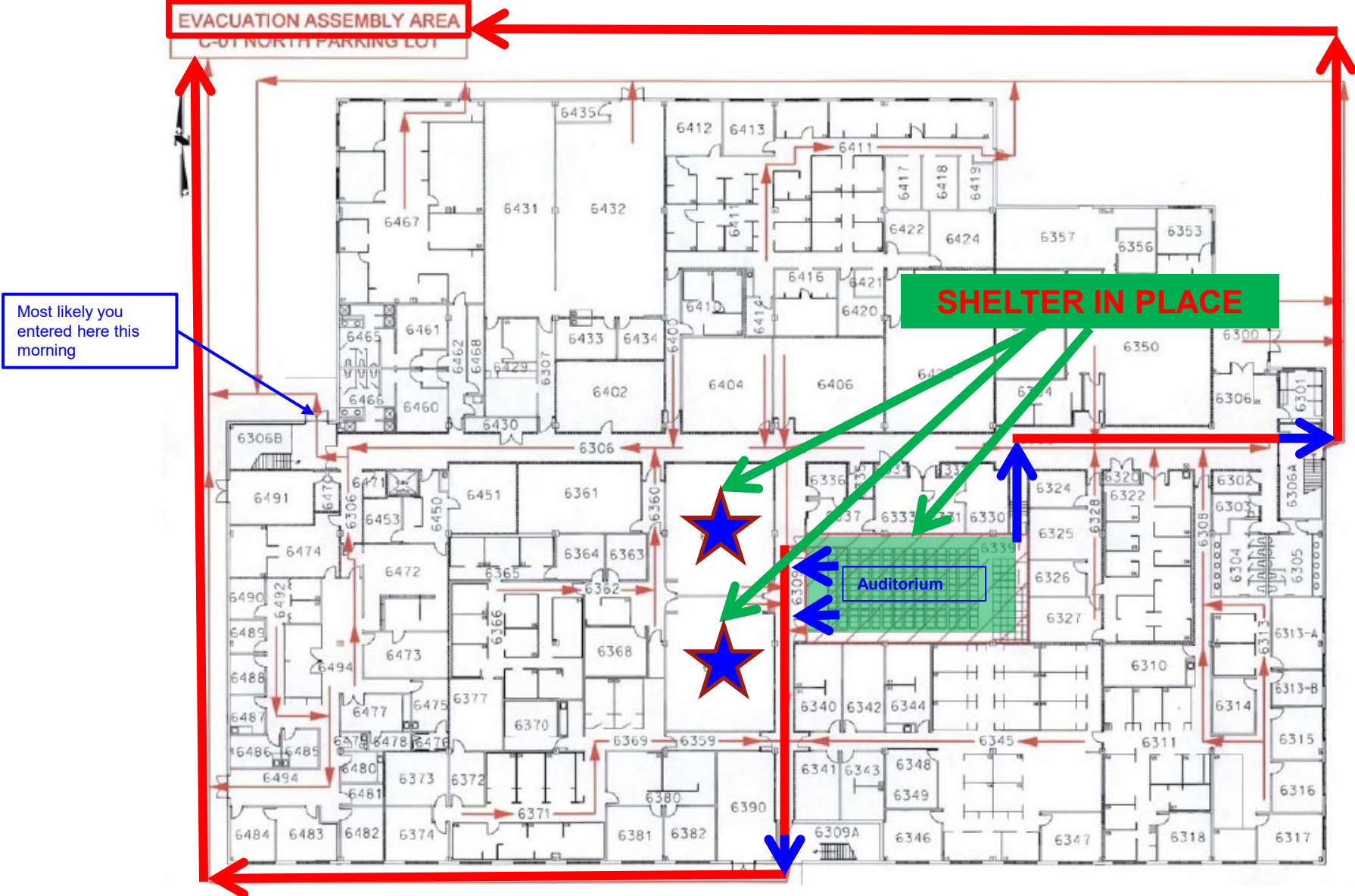


Logistics

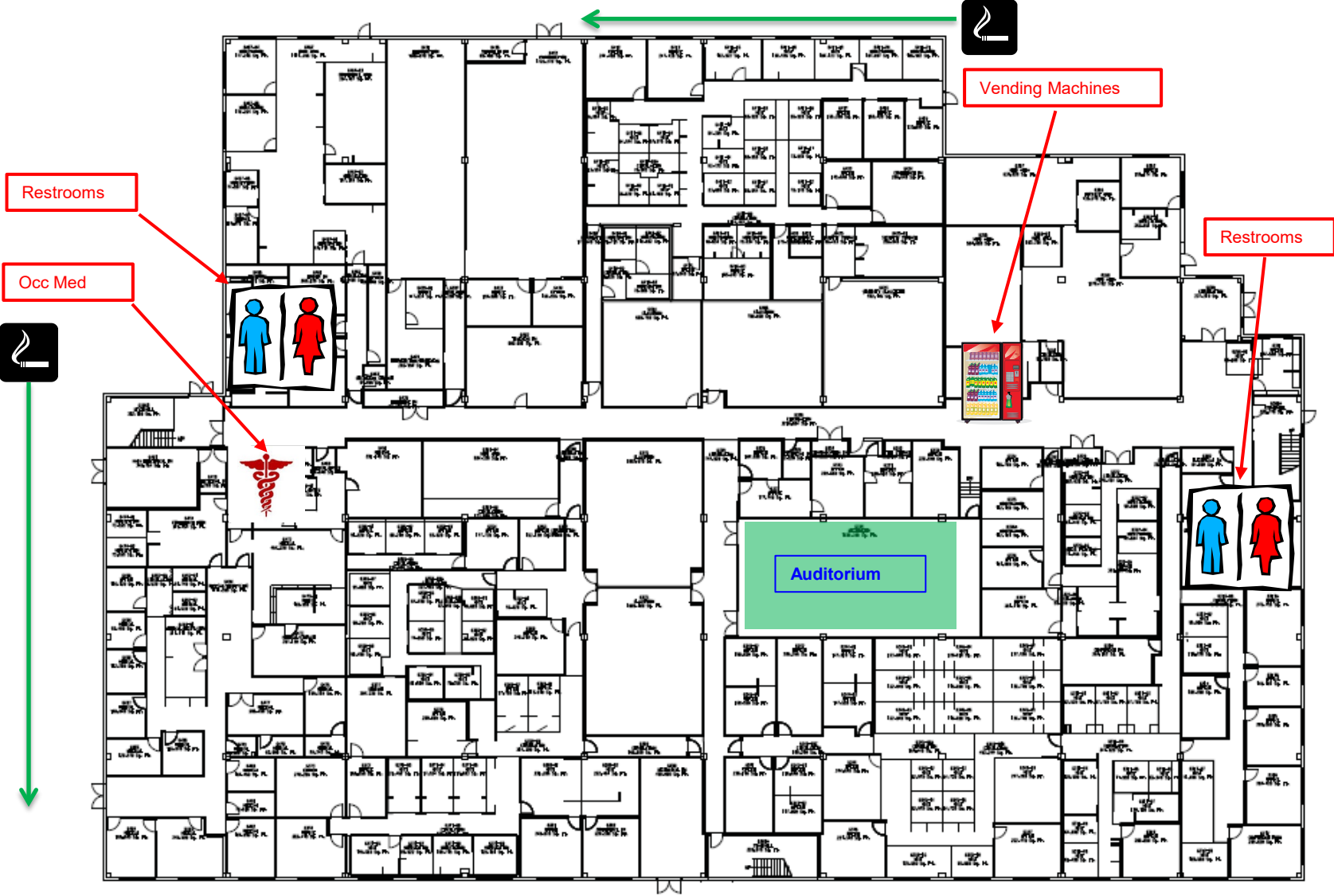
Barry Thom

Manager, Occurrence & Regulatory Reporting
Mission Support and Test Services

Shelter In-Place and Evacuation for C1 Auditorium



Building Information



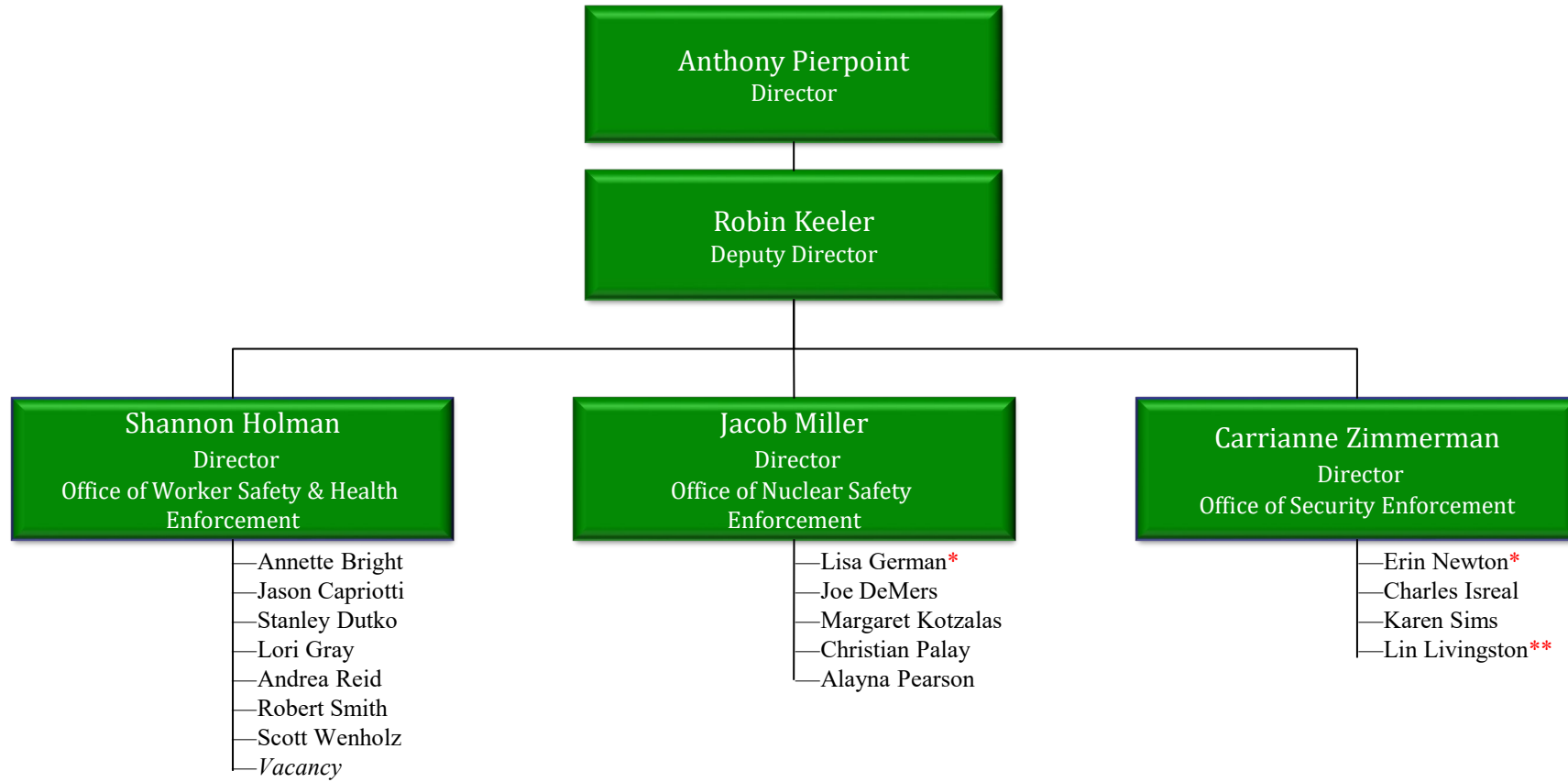
- ▶ Emergency – 911 / Occ Med Clinic at the North end of C-01
- ▶ Return visitor badges to the blue mailboxes on the last day
- ▶ Cellphones/iPads/Laptops are OK
- ▶ **No pictures, recordings, or mobile WiFi hotspots**
- ▶ **Do not connect anything to one of our systems**
- ▶ Food
 - Cafeteria (Up the Hill) – takes credit cards (No cash) from 0630 to 1530
 - North (left) on Losee Rd. – Be careful – Multiple locations: to include:
 - McDonalds (on left at Cheyenne)
 - Cannery Casino (on left at Craig)
 - Del Taco (on right at Craig)
 - Famous Dave’s Barbeque (on right at Craig)
 - Chipotle Mexican (on right at Craig)
- ▶ Your POC
 - Barry Thom– 702-249-6952



Office of Enforcement and Office of Enterprise Assessments Introductions

Anthony Pierpoint
Director
Office of Enforcement
Office of Enterprise Assessments

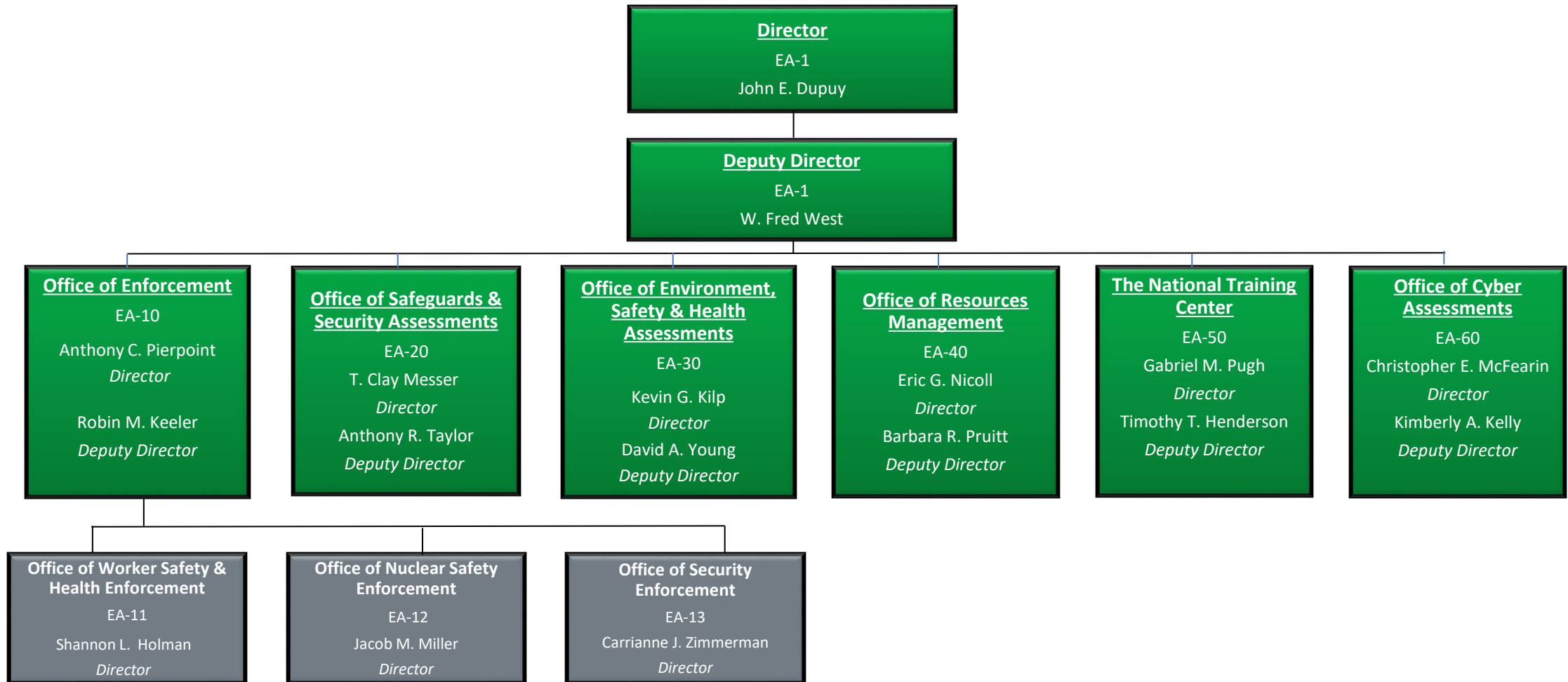
EA-10 Organization



* Denotes Contractor Administrative Support

** Denotes Contractor Support – Part-Time

EA Organization



DOE's Safety and Security Regulatory Framework

Shannon Holman

Director

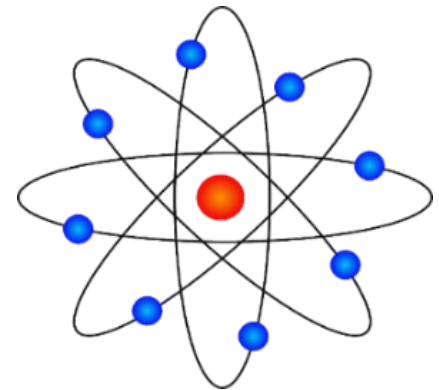
Office of Worker Safety and Health Enforcement

Office of Enforcement

Enforcement Authorities

The Atomic Energy Act authorizes the Secretary of Energy to issue civil penalties for violations related to:

- Section 234A (*Nuclear Safety*)
- Section 234B (*Information Security*)
- Section 234C (*Worker Safety and Health*)



Why Enforce?

- The Federal Government provides almost \$16.6 billion in financial protection to DOE contractors who may be liable for a nuclear incident (nuclear indemnification).
- Helps ensure contractors meet their obligations to provide a safe and healthful workplace, and
- Demonstrates that DOE and its contractors are trustworthy guardians of classified matter and information

Why Enforce? *(cont'd)*

- Promotes compliance with safety and security requirements, and
- Demonstrates to Congress and the public that DOE is capable of effective self-regulation

Enforcement Program Procedural Rules

- 10 C.F.R. Part 820, Procedural Rules for DOE Nuclear Activities, Parts 830 and 835
- 10 C.F.R. Part 824, Procedural Rules for the Assessment of Civil Penalties for Classified Information Security Violations, Parts 1016 and 1045 and applicable DOE directives
- 10 C.F.R. Part 851, Worker Safety and Health Program, Parts 850 and 851
- 10 C.F.R. Part 1017, Identification and Protection of Unclassified Controlled Nuclear Information

Additional Program Information

- ***Enforcement Process Overview:*** Provides more detailed information on program approach and implementation process.
- ***Enforcement Coordinator Handbook:*** Provides guidance and expectations on coordinator roles, noncompliance screening and reporting, discipline-specific information, and assessment and corrective action observations.
- ***Enforcement Program Overview Training:*** Provides an overview of the Enforcement program and process.

This information is located at: <http://energy.gov/ea/services/enforcement/enforcement-program-and-process-guidance-and-information>

Program Implementation

Tenets:

- Implement a framework designed to promote compliance with enforceable regulations;
- Devote limited resources to the most significant events/conditions;
- Adhere to the principles of transparency, consistency, and fairness; and
- Collaborate with DOE line management

Enforcement Philosophy

- DOE contractors are in the best position to identify and promptly correct noncompliances
- Provide incentives to promote contractor identification, evaluation, reporting, and resolution of noncompliances before events occur
- Proactive self-identification through contractor assessment processes creates the safest operations

Enforcement Approach

Incentives include:

- Discretion
- Mitigation

Mitigation for timely identification/reporting and corrective actions

- Effective corrective actions do not preclude enforcement action when warranted

Self-Reporting Expectations

- Noncompliance Tracking System (NTS) – Voluntary
- Safeguards and Security Information Management System (SSIMS) – mandatory and voluntary criteria
- Local tracking (by contractors) for noncompliances not meeting reporting criteria

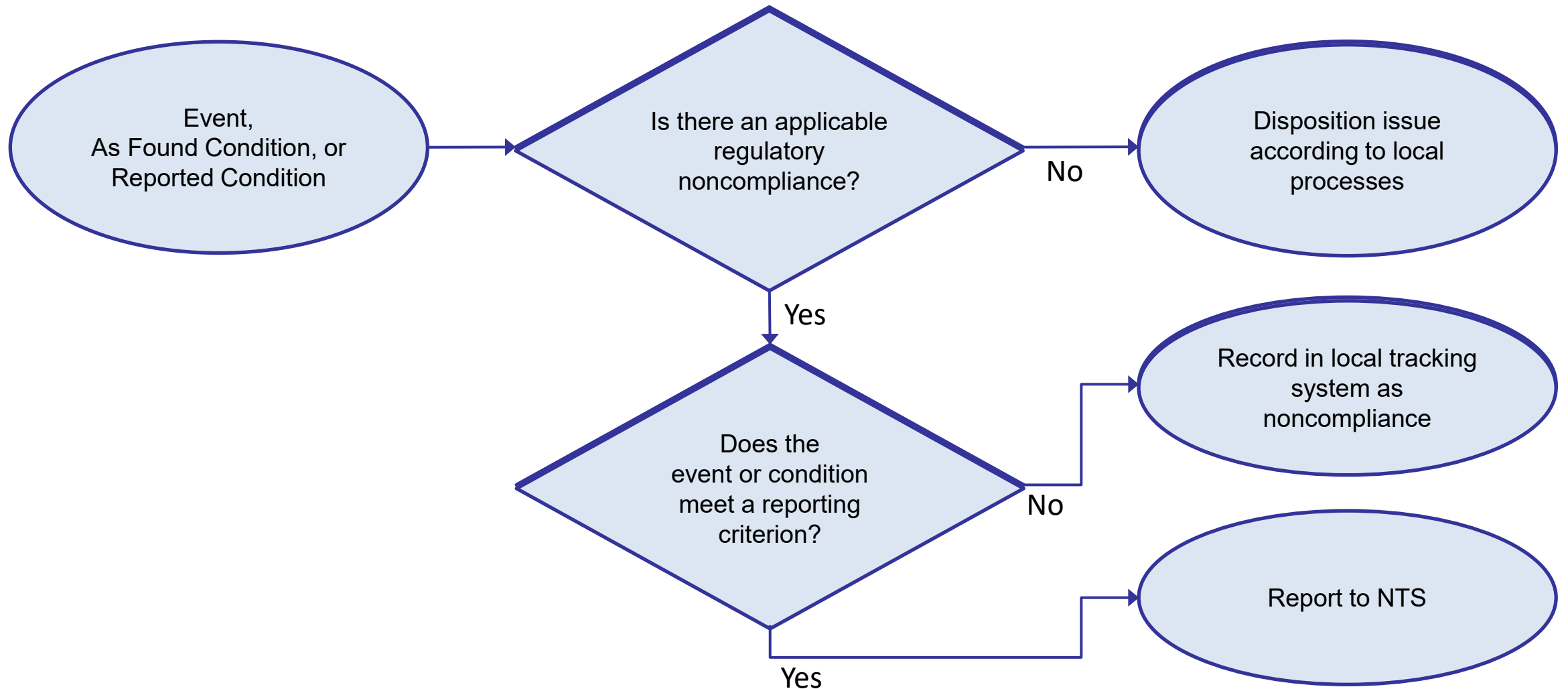
Worker Safety and Health and Nuclear Safety Noncompliance Reporting Process Overview

- Review information sources
- Screen for noncompliance(s)
- Evaluate for NTS reportability
- Investigation/causal analysis
- Corrective action development
- Track actions to completion and closure

Noncompliance Reporting

- Why report?
 - Opportunity for discretion
 - Opportunity for mitigation
 - Consideration for settlement
- Why isn't occurrence reporting sufficient?
 - NTS addresses regulatory compliance issues; not events or conditions
 - Voluntary nature of NTS supports enforcement philosophy and approach

Worker Safety and Nuclear Safety Screening Process



Security Noncompliance Reporting Process Overview

Timeframe – Maximum 5 calendar days to conduct preliminary inquiry and make initial categorization and notification

- Category A incidents – Reported in the Safeguards and Security Information Management System (SSIMS)
- Category B incidents – Optional reporting in SSIMS or reported in a local tracking system

Roles and Responsibilities of Enforcement Coordinators

Jacob Miller

Director

Office of Nuclear Safety Enforcement

Office of Enforcement

Enforcement Coordinator Roles

- Have a broad understanding of operations and activities at your site.
- Know what regulatory requirements apply to your site's operations.
- Be familiar with the procedural rules and know where to find information about enforcement program implementation.
- Understand the Department's philosophy and approach to enforcement.

Contractor Enforcement Coordinator Roles *(cont'd)*

- Oversees the noncompliance screening, evaluation, and reporting process for NTS, SSIMS and internal tracking systems.
- Evaluates noncompliances for identification of repetitive and programmatic issues.
- Understands and communicates the rationale for self-identification and reporting of noncompliances.
- Ensures completion and validation of corrective actions.

Contractor Enforcement Coordinator Roles *(cont'd)*

- Serves as the primary point-of-contact in the contractor organization for enforcement-related matters.
- Facilitates requests for information and documents (noncompliance evaluations, investigations, and assistance reviews).
- Facilitates coordination and scheduling of onsite investigations and reviews, including identifying relevant subject-matter-experts and union contacts.
- Regularly engages senior management on emerging non-compliant conditions.

DOE Enforcement Coordinator Roles *(cont'd)*

- Serves as primary point-of-contact in the site/field or program office for enforcement-related matters.
- Coordinates and reviews draft enforcement documents (investigation summaries, enforcement letters, settlement agreements, consent orders and preliminary notices of violation).
- Determines consensus position within the site/field/program element regarding safety or security significance, adequacy of investigation and corrective actions, and appropriate case outcome.
- Ensures settlement agreement and consent order commitments are met.
- Documents field office comments and recommendations for report closure into NTS.

DOE and Contractor Coordinator Roles *(cont'd)*

- Understand the enforcement investigation process and possible case outcomes;
- Actively participate in dialogue to ensure facts and technical issues are fully understood;
- Ensure management is kept informed of the status of investigations and proceedings;
- Remain cognizant of public affairs needs;
- Receive notification of impending issuance of an enforcement outcome; and
- Coordinate enforcement activity logistics.

General Enforcement Coordinator Duties and Responsibilities

- You are the “Go To” Person
 - Primary point-of-contact with the Office of Enforcement
 - Frequent and open communication
- Contractor coordinator is the liaison with the DOE site and field offices and the Office of Enforcement
- DOE (Federal) coordinator regularly communicates with both the contractor coordinator and the Office of Enforcement

General Enforcement Coordinator Duties and Responsibilities *(cont'd)*

- Access to and support of senior management
- Advise and represent management on enforcement issues
- Maintain awareness of the contractor's regulatory compliance status – noncompliance identification, tracking, trending, and reporting
- Training on-site personnel (including management)

Enforcement Staff Assigned Sites

DOE NNSA Site	Program Office	EA-11	EA-12	EA-13
Ames Laboratory	SC	Lori Gray	Joseph DeMers	
Argonne National Laboratory	SC	Andrea Reid	Margaret Kotzalas	Karen Sims
Brookhaven National Laboratory	SC	Jason Capriotti	Joseph DeMers	Karen Sims
DOE Headquarters	HQ	Stanley Dutko		Charles Isreal
East Tennessee Technology Park	EM	Andrea Reid	Joseph DeMers	
EM Consolidated Business Center <i>formerly</i> SPRU	EM	Stanley Dutko	Christian Palay	Charles Isreal
Fermi National Laboratory	SC	Scott Wenholz	Margaret Kotzalas	
Hanford - Richland	EM	Stanley Dutko	Christian Palay	Karen Sims
Hanford - River Protection	EM	Stanley Dutko	Christian Palay	Karen Sims
Idaho Cleanup Project	EM	Scott Wenholz	Margaret Kotzalas	
Idaho National Laboratory	NE	Scott Wenholz	Christian Palay	Charles Isreal
Kansas City National Security Campus	NA	Jason Capriotti	Christian Palay	Karen Sims
Lawrence Berkeley National Laboratory	NA	Robert Smith	Alayna Pearson	
Lawrence Livermore National Laboratory	NA	Scott Wenholz	Margaret Kotzalas	Charles Isreal
Legacy Management	LM	Andrea Reid		
Los Alamos National Laboratory	NA	Jason Capriotti	Margaret Kotzalas	Karen Sims
Moab UMTRA Project	EM	Lori Gray	Alayna Pearson	
National Renewable Energy Laboratory	EERE	Andrea Reid		
Nevada National Security Sites	NA	Stanley Dutko	Christian Palay	Charles Isreal
Oak Ridge National Laboratory	EM/SC	Andrea Reid	Christian Palay	Karen Sims
Office of Secure Transportation	NA	Stanley Dutko	Joseph DeMers	Charles Isreal
Pacific Northwest National Laboratory	SC	Lori Gray	Alayna Pearson	Karen Sims
Paducah Paducah Gaseous Diffusion Plant	EM	Robert Smith	Margaret Kotzalas	Charles Isreal
Portsmouth Gaseous Diffusion Plant	EM	Robert Smith	Margaret Kotzalas	Charles Isreal
Pantex Plant	NA	Jason Capriotti	Joseph DeMers	Charles Isreal
Princeton Plasma Physics Laboratory	SC	Robert Smith	Joseph DeMers	
Sandia National Laboratories	NA	Lori Gray	Joseph DeMers	Karen Sims
Savannah River Site	EM/SC	Scott Wenholz	Alayna Pearson	Charles Isreal
SLAC National Accelerator Laboratory	SC	Robert Smith	Alayna Pearson	
Southwestern Power Administration	SWPA	Stanley Dutko		
Thomas Jefferson National Acc. Laboratory	SC	Stanley Dutko	Christian Palay	
Waste Isolation Pilot Plant	EM	Lori Gray	Joseph DeMers	Charles Isreal
West Valley Demonstration Project	EM	Stanley Dutko	Margaret Kotzalas	
Y-12 National Security Complex	NA	Jason Capriotti	Alayna Pearson	Charles Isreal
Yucca Mountain Project Office		Scott Wenholz		



Safety and Security Enforcement Investigation Process

Robin Keeler

Deputy Director

Office of Enforcement

Office of Enterprise Assessments

Topics

- Enforcement and Evaluation Processes
- Case Selection Considerations
- Investigation Components
- Enforcement Conferences
- Enforcement Outcomes
- Coordinator Roles

Resources

- Enforcement Process Overview (EPO)
- Enforcement Coordinator Handbook (ECH)
- NTC Learning Nucleus Training Course:

HQ-150DE: DOE Safety and Security Enforcement Program Overview

- These resources are found at:

<https://www.energy.gov/ea/enforcement-program-information-and-training>

Poll

How long have you been an enforcement coordinator?

- A. More than 3 years
- B. More than 1 year
- C. Between 6 months and 1 year
- D. Less than 6 months

Enforcement Process

- Enforcement staff are assigned sites to monitor
- Review and evaluate performance and compliance information from numerous sources
- Pursue cases of significance
- Use incentives for issues that are self-identified and effectively resolved

Information Sources

- Events
- ORPS and injury reports (CAIRS, OSHA logs)
- Accident investigations
- Nonconformance reports
- Radiological deficiency reports
- Employee concerns
- Self-assessments, corporate assessments
- External assessments (site/program office, EA, IG, GAO, DNFSB)
- Local Security Surveys
- Security Inquiries
- Security Incident Trending and Analysis



Evaluation Process

In most cases, enforcement staff determine that safety or security significance is low or limited and there are no other factors leading to a need for further investigation

In some cases, enforcement staff may request additional information

Case Selection Considerations

- Actual/potential safety or security significance
- Contractor performance history/trends
- Isolated event or systemic problem
- Level of management involvement
- Prompt identification/reporting
- Comprehensive corrective actions
- Willfulness or record falsification
- DOE line management input

Enforcement Options

- Exercise discretion; track to closure
- Advisory Note
- Consider issuance of an Enforcement Letter
- Conduct a fact-finding visit
- Recommend formal investigation

Notification of Decision to Investigate

Contractor is notified
by formal letter:

**Notice of
Investigation**

Separate letters for
any subcontractors
subject to
investigation

Requirement to
segregate
investigation-related
costs in accordance
with the Major Fraud
Act (for contractors
with a covered
contract)

Request for
documents typically
sent shortly after
letter is issued

Notice of
Investigation letters
posted to EA website
until case is
concluded

Notice of Investigation Letters

- Office of Enterprise Assessments • Notice of Investigation letters
- November 14, 2023

Notice of Intent to Investigate, Lawrence Livermore National Security, LLC

Related to the deficiencies in implementing the LNL quality assurance program at Lawrence Livermore National Laboratory.

ENTERPRISE
 NUCLEAR SAFETY
 - September 11, 2023

Notices of Intent to Investigate, East Tennessee Mechanical Contractors, Inc., and The Davey Tree Expert Company (DBA Cortese Tree Specialists)

Related to a worker's fatal injury at the Oak Ridge Reservation Central Training Facility in Oak Ridge, Tennessee.

ENTERPRISE
 WORKER SAFETY
 - August 23, 2023

Notices of Intent to Investigate, Mid-America Conversion Services LLC, Construction Safety Consultants, Inc., and Omni Services, Inc.

Related to a potential overexposure event at the Depleted Uranium Hexafluoride Conversion Facility in Paducah, Kentucky.

ENTERPRISE
 WORKER SAFETY
 - August 16, 2023

Notices of Intent to Investigate, Fermi Research Alliance LLC, Whitaker Construction & Excavation, Inc., Nucor Harris Rebar Midwest, LLC, and Harris Rebar Placing, LLC

Related to a serious fall injury at the Fermi National Accelerator Laboratory.

ENTERPRISE
 WORKER SAFETY
 - August 7, 2023

Notice of Intent to Investigate, Consolidated Nuclear Security, LLC

Related to the Loss of Criticality Controls During Demolition at Y-12 National Security Complex.

ENTERPRISE
 NUCLEAR SAFETY
 - July 26, 2023

Notice of Intent to Investigate, National Technology and Engineering Solutions of Sandia, LLC

Related to a worker hand injury (finger amputation) at the Sandia National Laboratories Weapons Evaluation Test Laboratory at the Pantex Plant.

ENTERPRISE
 WORKER SAFETY
 - May 25, 2023

Notices of Intent to Investigate, Idaho Environmental Coalition, LLC and American Equipment, Inc

Related to uncontrolled exposure to potential dangerous levels of carbon monoxide at the Idaho Cleanup Project.

ENTERPRISE
 WORKER SAFETY
 - April 18, 2023

Notice of Intent to Investigate, APTIM – North Wind Construction JV, LLC

Related to a hand injury (finger amputation) event at the Y-12 National Security Complex.

ENTERPRISE
 WORKER SAFETY



Investigation Components



Document Review



Onsite Interviews



Onsite Out brief



Investigation Summary Issued

- Potential violations and regulatory considerations



Enforcement Conference



Enforcement Outcome

Investigation Summary

- Enforcement develops an **Investigation Summary**
- Investigation Summary contains:
 1. Potential violations
 2. Regulatory considerations
 3. Enforcement conference recommendation
- Investigation Summary is provided to DOE Program and Field Office for **factual accuracy review**
- Investigation Summary report is marked Controlled Unclassified Information (CUI) when developed and issued due to its pre-decisional nature

Enforcement Conference

- Investigation summary and transmittal letter may recommend an enforcement conference
- Purpose is to:
 - **Confirm or dispute facts** contended in investigation summary
 - **Discuss potential violations, causes, and safety significance**
 - Discuss **status of corrective actions**
- Contractor can waive an enforcement conference
- Conference may be held onsite or at DOE Headquarters

Post Conference DOE Meeting

- **Office of Enforcement and DOE line management representatives meet** to discuss:
 - Observations about case significance and contractor handling of issues
 - Options for path forward
- No final decisions at this point
- Office of Enforcement continues to consult DOE line management as outcome options are discussed and an outcome document is developed

Enforcement Outcomes

Enforcement Outcomes

- Enforcement Letter
- Consent Order/Settlement Agreement
- Notice of Violation (PNOV, FNOV)
- Compliance Order
- Special Report Order (Nuclear Safety only)



*** The NNSA Administrator issues PNOVs, FNOVs, and SROs for NNSA contractors after considering the recommendation of the Director.**

Enforcement Letters

- **Not an enforcement action**
- Used to communicate Office of Enforcement view on potential noncompliance matters - positive and negative
- Intended to direct contractors to the desired level of safety or security performance
- **Coordinated with DOE Program and Field Office**
- Signed and issued by the Director of Enforcement for NNSA and non-NNSA contractors
- Should **not be used as punitive measures** in contractor performance evaluations (underlying issues may be addressed)



Consent Order/Settlement Agreement

- Document developed by Office of Enforcement is coordinated with DOE line management
- In addition to monetary remedy, may include required action items
- Document with proposed settlement terms is provided to contractor for review
- Document is marked Controlled Unclassified Information (CUI) until it is signed by the Director of Enforcement

Consent Order/Settlement Agreement (cont'd)

- For **NNSA contractors**, agreement is **co-signed by Director of Enforcement and NNSA Administrator**
- Signed document is transmitted to contractor for signature within one week of receipt
- Failure to fulfill terms of agreement is enforceable

Request for Consent Order/Settlement

- **Timeliness** in requesting settlement is a key consideration; should come before onsite investigation occurs
- Settlement request must provide contractor's justification for settlement; see the Enforcement Process Overview
- **Typically include remedies**

Preliminary Notice of Violation (PNOV)

- Identifies specific **regulatory violations**
- **Identifies severity level for each violation** and proposed penalty, including amount of mitigation
- Violations can be evaluated in the aggregate and a single (higher) severity level assigned
- Civil penalties can be assessed on a per day basis for each violation
- Base civil penalty amounts were adjusted for inflation effective February 3, 2014

Notices of Violation

- Contractor is obligated to respond within a specified time frame
- If the contractor does not reply within the specified time or chooses to not contest the PNOV, the Director sends the contractor a letter that deems the PNOV a Final Order
- Response to PNOV will determine whether a Final Notice of Violation (FNOV) is issued
- PNOVs are accompanied by issuance of a Press Release or Fact Sheet
- Appeal processes for Final Notices differ by rule/discipline

Notices of Violation (cont'd)

- Worker Safety and Health Notices of Violation may include civil penalties or contract fee reductions but not both
- Notices of Violation for NNSA contractors are issued by the NNSA Administrator subsequent to a recommendation from the Director of Enforcement

Severity Level Determination

Considers the following:

- Actual or potential impact on safety (primary consideration)
- Culpability of contractor
- Duration of violation
- History of similar violations
- Isolated or multiple occurrences
- Position, training and experience of individual(s) involved
- Prior notice of potential problem
- Willful violations
- Other contributing factors

Mitigation/Escalation Factors

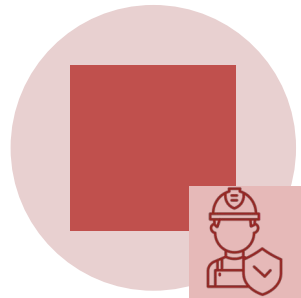


Prompt identification and reporting by contractor
(up to 50% decrease in penalty)



Timeliness and effectiveness of corrective actions
(can  decrease or increase  penalty up to 50%)

Process Differences




Worker Safety and Health Notices of Violation may include civil penalties or contract fee reductions but not both



Notices of Violation for **NNSA contractors** are issued by the **NNSA Administrator** subsequent to a recommendation from the Director of Enforcement

Severity Levels and Civil Penalties: 2024

					
		Worker Safety & Health	Nuclear Safety	Classified Information Security	
Severity	Level I	\$118,000 (100%)	\$255,000 (100%)	\$182,000 (100%)	
	Level II	\$59,000 (50%)	\$127,500 (50%)	\$91,000 (50%)	
	Level III	Does not apply	\$25,500 (10%)	\$18,200 (10%)	

- See appendices to the Procedural Rules for descriptions of Severity Levels
- Penalties can be assessed on a per violation, per day basis.
- Base civil penalty amounts are adjusted annually for inflation
- Additional information on civil penalties can be found

at: <https://www.energy.gov/ea/enforcement-program-information-and-training>

Other Outcomes



Special Report
Order



Compliance Order

Special Report Order



- Applies only to Nuclear Safety issues (10 CFR 820.8)
- **Not an enforcement action**
- Requires the submission of information relating to a DOE Nuclear Safety requirement and may require written response to questions
- Signed by the Director of Enforcement or NNSA Administrator

Compliance Order

- Applies to all three enforcement disciplines
- Issued by the **Secretary of Energy**
- Identifies and mandates a remedy for a situation violating or potentially violating the Atomic Energy Act or a regulatory requirement
- Is **typically accompanied by a PNOV**
- Failure to comply is also enforceable



Recap of Noncompliance Evaluation Outcomes

- Track to Closure
- Enforcement Letter
- Settlement Agreement/Consent Order
- Notice of Violation (Preliminary or Final)
- Special Report Order (Nuclear Safety only)
- Compliance Order

Questions?

<https://www.energy.gov/ea/enforcement-program-information-and-training>