

Best Practice #94 Contractor Participation in Enforcement Conferences

Facility: Regulatory and Enforcement Technical Subgroup

Best Practice Title: Contractor Participation in Enforcement Conferences

Point of Contact: Kathy Brack, (806) 573-0537, kathy.brack@pantex.doe.gov
or current Regulatory & Enforcement Technical Subgroup co-chairs

Brief Description of Best Practice: Common practices to prepare for and participate in an Enforcement Conference. Enforcement Conferences are an opportunity for contractors to provide information to be used by the DOE Office of Enforcement when determining whether to issue an enforcement action and applicability of provisions for regulatory discretion and mitigation.

Why the best practice was used: Investigations are not routine or frequent. The best practice describes a methodical approach to preparation and participation in an enforcement conference. Organized presentations support the objectives of providing pertinent information at the conference.

What are the benefits of the best practice? The best practice is intended to give enforcement coordinators and management teams confidence in their preparations for the enforcement conference.

What problems/issues were associated with the best practice: The best practice provides an efficient approach that considers the impact to potentially unallowable costs while achieving presentations consistent with Office of Enforcement guidance.

How the success of the Best Practice was measured: Anecdotal evidence indicates that many enforcement coordinators have referenced the best practice during preparations for enforcement conferences since the original version was posted.

Description of process experience using the Best Practice: The best practice was developed through collaboration and reflects best business practices used throughout the DOE complex.

Best Practice for Contractor Participation in Enforcement Conferences

Prepared by:

EFCOG Safety Working Group

Regulatory & Enforcement Technical Subgroup

February 2, 2026

Contents

Purpose 3

Introduction to Enforcement Conference 3

Enforcement Conference Value to the Contractor 3

Scheduling an Enforcement Conference 4

Logistical Arrangements..... 5

Preparing for the Meeting 6

During the Conference..... 10

After the Conference – Contractors..... 12

After the Conference – Office of Enforcement..... 13

References 14

Purpose

This best practice describes a methodical approach for contractors to use in preparing for an Enforcement Conference. The approach is consistent with guidance and the descriptions of the conference in the regulatory drivers.

Introduction to Enforcement Conference

An Enforcement Conference is an informal meeting to openly and candidly discuss a potential enforcement issue and the information revealed by an investigation. The conversations are more productive when each participant enters the meeting with respect for the process and a willingness to learn from the discussion. Contractors should be prepared to provide:

- Information about the accuracy of the facts and potential violations noted by the Office of Enforcement (EA-10) in its investigation summary or other documentation;
- Any necessary clarifications;
- Explanations of actions being taken, including schedule, to resolve the noncompliance(s) and underlying causes;
- Perspectives on significance;
- Perspectives on any aggravating or mitigating factors.

The choice to conduct an Enforcement Conference belongs to the EA-10 Director. The conferences are not open to the public and are typically limited to representatives of EA-10, the contractor, the field office (FO), the DOE or NNSA Program Office (PO), and the technical advisors to EA-10. Separate conferences may be held with subcontractors associated with the investigation.

Contractors should prepare the suggested content for the meeting and be prepared to respond to questions and discussion points raised by the OE or other federal representatives. Although participants share the goal of preventing recurrence of significant events and noncompliances, differences in knowledge and viewpoint are likely to arise. Attempts to anticipate questions and variation in viewpoints during dry runs may help contractor representatives prepare for the meeting.

Enforcement Conferences are typically recommended by the EA-10 Director, but a contractor may request an Enforcement Conference if one is not recommended. For example, the contractor may want to request an Enforcement Conference if EA-10 has proceeded to a Preliminary Notice of Violation (PNOV) without an investigation summary or other investigation documentation.

Enforcement Conference Value to the Contractor

Participation in an Enforcement Conference provides contractors with a valuable opportunity to engage directly with EA-10 typically before formal enforcement decisions are made. While attendance is voluntary, it is often strategically advantageous. Alternatively, contractors may choose to decline participation based on circumstances. The Enforcement Conference offers the opportunity to reach mutual agreement on the facts used to determine the enforcement outcome and application of regulatory discretion and mitigation.

Requesting a Conference or Accepting the Recommendation for a Conference

Contractors may accept a recommendation for an Enforcement Conference or request an Enforcement Conference (if EA-10 does not recommend one). Participation may be beneficial when:

- There is disagreement about the facts.
- The contractor has compelling mitigating information to present.
- A face-to-face dialogue may help achieve mutual understanding.

Conferences are held at the sole discretion of the EA-10 Director. Requests should be made promptly and through appropriate channels, typically in writing.

Declining a Conference

While uncommon, contractors may opt to decline participation in response to the EA-10 Director's recommendation. This decision should be weighed carefully, as it limits the contractor's ability to reach a mutual understanding by correcting factual inaccuracies and presenting contextual information directly to EA-10. Reasons for declining may include:

- Agreement with DOE's findings and preference to resolve through written response
- Legal or procedural constraints (e.g., parallel investigations, litigation)
- A prior submission already provides comprehensive information

In these cases, EA-10 proceeds based solely on the available record and written materials.

Scheduling an Enforcement Conference

When EA-10 issues an investigation summary to the contractor, the EA-10 Director usually recommends that an Enforcement Conference occur within 30 calendar days. Scheduling requires coordination with the FO, DOE/NNSA PO, contractor representatives, and EA-10. The conference can be located at either the contractor's facility or at DOE headquarters. EA-10 will send the proposed agenda once the parties have agreed on an acceptable date.

The contractor Enforcement Coordinator should quickly determine preferred and alternate dates when the participating contractor personnel are available and contact the FO Enforcement Coordinator to ensure the dates will work for the FO. When this effort is completed quickly, the contractor or FO Enforcement Coordinator can recommend, or request, dates to EA-10. Some back and forth may be necessary to achieve agreeable dates. Likely participants include:

EA-10 Personnel: Enforcement Director, Director of applicable Enforcement Office, responsible enforcement officers and any technical advisors involved in the case.

DOE FO and PO Personnel: Senior DOE/NNSA managers, applicable FO management and FO Enforcement Coordinator(s).

Contractor Personnel: Senior contractor management (e.g., Laboratory Director, President, etc.), key management personnel responsible for responding to the event or conditions and the

potential violations and underlying problems (usually includes a Contractor Assurance representative), legal counsel, contractor Enforcement Coordinator.

Subcontractor Management: If separate outcome documents expected, EA-10 will arrange separate Enforcement Conferences. EA-10 prefers to schedule the separate conferences to occur around the same time. A contractor enforcement coordinator may be called upon to arrange logistics if the conferences are held on-site, but in some cases the subcontractor Enforcement Conference may occur at their office location.

EA-10 will provide a proposed agenda once the parties have identified a date that is acceptable. Conferences include a pre-meeting for the federal participants, a meeting with the contractor, and a post-meeting for the federal participants. The complete conference can take several hours depending on the complexity of the issues and points of potential disagreement. The contractor provides input to the length of the contractor meeting and should request enough time to ensure agreement on the facts can be achieved. Conveying the time needed is important to ensure the post-meeting will be accurately scheduled. The time is frequently allotted as follows:

Pre-meeting – Federal Participants Only	1 hour
Meeting including the contractor	1 - 2 hours (or more as agreed upon during planning)
Post-meeting – Federal Participants Only	1 hour

If the conference is held at the contractor's facility, the contractor enforcement coordinator should reserve a conference room for the entire period of the conference that provides video conferencing capability and sufficient space for the personnel participating in person. Usually, the EA-10 investigation team, their supervisor, the contractor personnel, and FO personnel participate in person.

The contractor Enforcement Coordinator provides input to the EA-10 agenda including contractor participants, anticipated time needed for the contractor portion of the meeting, and locations, if the conference is being held at the contractor's facility.

Logistical Arrangements

When the meeting is held at the contractor's facility, the contractor Enforcement Coordinator begins planning based on the EA-10 proposed agenda.

1. The contractor Enforcement Coordinator works within their processes to arrange facility access including required paperwork and any arrangements needed for badging.
2. The contractor Enforcement Coordinator should share facility maps and directions to a meeting location or the location where they will obtain their access, if needed, and the conference location. Some sites arrange designated parking for the visitors.
3. If the meeting will include or conclude near lunch time, information about cafeterias or nearby restaurants may be helpful.
4. Depending on where the meeting will be conducted (Property Protection Area, Limited Area, etc.), controlled articles and medical device requirements should be communicated to EA-10 well before the meeting and again as a reminder nearer to their arrival.

5. Ensure conference rooms have been scheduled for all meetings (Pre-Conference, Enforcement Conference, and post-conference).
 - a. Conducting the conference in a single room may enhance efficiency and convenience; however, steps should be taken to ensure contractors do not enter the federal employee only portions of the conference.
 - b. The conference room should include the necessary equipment.
 - i. Presentation Screens
 - ii. Unclassified and/or classified computing
 - iii. Virtual participation in the conference is commonly expected, and conference rooms should be selected for this capability
 - iv. Testing equipment ahead of time and arranging for IT support to be available before and during the conference can help to ensure the technical aspects of the meeting go smoothly.
 - c. Rooms should have the capacity to comfortably accommodate the in-person participants. EA-10 and the FO Enforcement Coordinator will provide information about the number of people attending in person.
 - d. Additionally, some topics may include the potential for classified or controlled information presentations or discussion. Both the conference room and virtual participation must be approved for the level of information that will be available during the meeting.
6. Arrange for access to classified documents, if needed. At this stage of the investigation, a request to review documents in advance of the conference is unusual, but contractors may wish to base portions of the discussion on documents that are classified. If so, EA-10 may request access to review the documents before they depart the site. Arranging to transmit the documents after EA-10 leaves the site can be difficult. Not all Enforcement Officers have classified email.
7. Keep a list of additional documents that EA-10 may request during the Enforcement Conference. The Contractor Enforcement Coordinator should follow-up with EA-10 towards the end of the Enforcement Conference to confirm the list as well as the expected transmittal date and method for delivery.
8. Ensure there is a sign-in sheet for the Enforcement Conference and that attendees sign in. If attending virtually, document participants who were on the call.
9. All arrangements made in support of the contractor meeting should also be applied to the Federal Participant only meetings before and after the conference.
10. Although tours and walkthroughs are uncommon during an Enforcement Conference, if one is needed or requested, work through your site-specific process to ensure training, safety, and personnel protective equipment requirements are understood and communicated to EA-10.

Preparing for the Meeting

Establish Approach to the Contractor Presentation

The contractor Enforcement Coordinator should work with the senior management or key management personnel to develop a plan, identify presenters, and prepare presentation materials for the Enforcement Conference. Participants should be in agreement regarding the company position on the

discussions and have a clear understanding of how responses to questions will be fielded and handed off between participants. If the primary message includes information which may alter preliminary violation determinations, the approach and presentation materials will require additional effort including mock conferences or dry run presentations designed to anticipate questions and information that may run counter to the company's position. The contractor Enforcement Coordinator usually facilitates these practice sessions. The objective is to ensure team cohesion and consistency in messaging.

The tone and objective for the meeting should also be clear. A conversational tone reflecting mutual respect is recommended. Objectives vary depending on the factual accuracy of the investigation summary and the degree of variance between the contractor and EA-10 understanding of the facts. One objective that should be a part of every encounter with EA-10 is to achieve or maintain credibility and trust. Credibility and trust are most reliably achieved through candid, respectful discussion based on facts. Characteristics of a successful presentation include:

- Acknowledging facts.
- Provide objective evidence if facts have been misinterpreted or mischaracterized.
- Providing event context (e.g., unforeseen circumstances, circumstances that cannot be controlled such as weather or aging facilities, controls that worked, lack of prior violations, etc.)
- Highlighting prompt and effective actions particularly those that kept the event from being worse or will prevent recurrence of underlying causes.
- Demonstrate a robust compliance program based on a history of transparency and good performance, where applicable.

The final product should be clear, concise and factual. Although there is no required format or template, a PowerPoint presentation is a good method and potentially serves as a reference to DOE during discussions and deliberations. If used, a copy of this presentation should be sent to EA-10 promptly after the Enforcement Conference.

Pictures that illustrate corrected conditions can be persuasive with regard to mitigation and discretion. If the meeting is being conducted virtually, the contractor team should consider how best to share visual aids. There are pros and cons to presenting the information on screen vs using handouts. For example, eye contact is stronger when using handouts, but they must be distributed to virtual participants. Visual aids should support a concise clear discussion and include applicable elements as described in the following sections.

Preparing Contractor Content

Factual Accuracy Review of the Investigation Summary: Following an investigation, EA-10 will describe the facts identified during the investigation and the potential regulatory violations in an investigation summary. The investigation summary should be carefully reviewed by the contractor from a technical and regulatory perspective. Any inaccuracies, anomalies or questions should be noted and identified to EA-10 as early as possible before the Enforcement Conference. They should also be identified as a topic of discussion during the Enforcement Conference.

Factual accuracy feedback should be based on objective evidence that can be retrieved and presented to EA-10. The internal investigation or information gathered during the EA-10 on-site investigation is the best source for this evidence. Careful collection of relevant data and documentation during these

activities and storage in a well thought out document repository will aid the review and presentation of evidence.

Legal counsel and the contractor Enforcement Coordinator should be prepared to advise management on EA-10 authority and past precedent. These organizations should also review the investigation summary considering the accuracy of requirement citation against the potential noncompliance identified by EA-10.

A matrix or a chart that shows which facts from the investigation summary are agreed upon and which ones are being refuted is helpful. This matrix should be sent to the Enforcement Officer before the start of the Enforcement Conference to help EA-10 understand the contractor's position and prepare follow-up questions.

Details of potential violations, their causes, response, recovery, and safety or security significance:

The investigation summary will have outlined the potential violations. The contractor should review the list of potential violations and be prepared to speak to their causes, response, recovery, and safety or security significance.

Corrective actions taken and scheduled to prevent or reduce the likelihood of recurrence: The contractor should be prepared to speak to the status of the original action plan and new corrective or improvement actions, if applicable. Specifically, this discussion should include how the actions address the potential violations and how they will prevent or reduce the likelihood of recurrence.

Demonstrating the comprehensive nature of the action plan may require discussion of the context in which the actions are being implemented. Contractors should be prepared to discuss the compliance culture and any planned actions or improvements as well as adequacy of continuous improvement mechanisms.

Actions in addition to the original plan may be identified based on new information, completed extent of condition reviews, the outcomes of some original actions, or information presented following the on-site investigation or receipt of the investigation summary. The presentation should help EA-10 understand the sources of new actions. If a gap is revealed by the EA-10 investigation, identifying actions to address that gap is especially important to the maintenance of credibility and trust.

Severity of the potential violations: Worker safety and health, nuclear safety, and security requirements have varying degrees of significance. Therefore, the relative importance of each potential violation must be identified as the first step in the enforcement process.

Severity levels are described in the applicable CFR(s). The EA-10 perspective on the severity of each potential violation is not revealed in the investigation summary, as the intent of this document is to ensure agreement between stakeholders on a common set of facts. Only after this common set of facts has been determined and after seeking the perspective of the federal and contractor stakeholders during the Enforcement Conference, will EA-10 determine the appropriate severity level for inclusion in a PNOV, if one results. The Enforcement Conference, when conducted, provides the opportunity for input regarding potential outcomes and severity. The contractor should thoroughly review the violations and applicable CFR and take the

initiative to propose severity levels. Discussions during the Enforcement Conference should be commensurate to the severity level of the violations, e.g., the contractor should not present simple/local corrective actions for a significant potential violation and expect to receive mitigation.

Applicability of Mitigation Factors considered by DOE when determining whether to assess a civil penalty: Civil penalties are based on the severity level of the potential noncompliance and to mitigate penalties based on specified considerations.¹ During the Enforcement Conference, the contractor should be prepared to discuss the application of mitigation and discretion factors as an input to the civil penalty determination.

Agreement on potential noncompliance is necessary before discussing mitigation because mitigation is usually based on the contractor response to recognition of a noncompliance. Potential mitigating factors include:

- Early self-identification and reporting.
NOTE: Credit for self-identification will typically not be granted in the case of a self-revealing noncompliance (e.g., revealed by an event).
- Prompt action (compensatory measures) to correct the condition.
- Prompt and comprehensive causal analysis and extent of condition review.
- Comprehensive and effective corrective actions, including measures to prevent recurrence.
- Effectiveness reviews (either conducted or planned).
- Efforts to share the lessons learned and operating experiences with the DOE complex.
- Ongoing improvement action commitments with planned completion dates.

Other application of the Enforcement Policy, including exercise of discretion: Because DOE wants to encourage and support contractors' initiative in prompt self-identification, reporting, and correction of problems, DOE's enforcement policies grant the Director of Enforcement broad discretionary authority to recognize positive steps by contractors. This discretionary authority can include deciding not to pursue a Notice of Violation (NOV), grouping violations to reduce the magnitude of the penalty, mitigating a civil penalty, or escalating a civil penalty.

When a PNOV will be issued, the decision to aggregate violations to reduce the potential magnitude of the PNOV may result from: (1) proactive and effective actions by the contractor in identifying and correcting the violations; or (2) ongoing improvements that the contractor had already started but were not yet fully effective when the violations occurred.

A decision to not pursue an enforcement proceeding is generally based on meeting the set of criteria as outlined in the DOE Enforcement Process Overview.

¹ The enforcement policies for worker safety and health (Part 851, Appendix B), nuclear safety (Part 820, Appendix A), and classified information security (Part 824, Appendix A) state that civil penalties are designed to emphasize the importance of compliance, deter future violations, and encourage early identification and reporting of violations and their prompt correction. Civil penalties are not assessed for revenue purposes, but rather to emphasize the importance of compliance and to deter future violations. As mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, DOE adjusts civil penalty amounts annually for inflation. The [Civil Penalty Tables](#) are available on the EA website.

As appropriate, EA-10 will consider latent conditions or legacy issues discovered by a contractor that are likely due to the actions or inaction of a previous contractor. Whether to apply discretion will depend on several factors, including whether the current contractor should have identified the problem earlier through routine activities, such as surveillance, survey, or assessment activities; whether the current contractor should have identified the problem through a required inspection or baseline review; whether the current contractor should have identified the problem in its due-diligence reviews; or whether the current contractor was notified of the existing problem by DOE or the previous contractor. In any such cases, the current contractor must have taken prompt and appropriate action upon identification and properly reported the noncompliance condition to receive consideration for this application of discretion.

Also, a civil penalty may be escalated if the DOE contractor is or should have been aware of a violation and has not reported it to DOE and taken corrective action despite an opportunity to do so. In such cases, the DOE may consider each day the condition existed as a separate violation subject to a separate civil penalty. This rarely applied form of regulatory discretion usually results in a one-day escalation.

The per-day civil penalty escalation may be applied when a violation is significant enough that a single-day penalty does not reflect its seriousness, especially if the violation persisted for an extended period of time and could have been identified. Factors indicating substantial opportunities to identify the violation include: (1) contractor management's awareness of the violation without reporting it to the DOE; (2) the violation's prolonged existence, which could have been detected with proper assessments; and (3) prior notifications of the violations through enforcement actions. In cases of willful or severe violations, repeated poor performance, or significant management failures, the DOE may cite violations for multiple days based on their seriousness and consequences.

As applicable, the contractor should be prepared to discuss any discretion related topics during the Enforcement Conference.

Basis for requesting settlement, if applicable: If settlement has been requested, the contractor should discuss the basis for settlement during the Enforcement Conference. The discussion should expand on the basis for settlement documented in the formal request for settlement transmitted to EA-10 earlier in the process.

More information about requesting settlement can be obtained from the Regulatory and Enforcement Best Practice titled, "Request for Consent Order or Settlement Agreement."

During the Conference

DOE-Only Meeting

Before the Enforcement Conference, the director or their designee convenes a meeting with the DOE participants for a brief preliminary discussion. This meeting is designed to familiarize DOE personnel

with the enforcement process and to discuss the perspective of DOE line management regarding the case, as well as other factors relevant to the contractor's performance.

Meeting with the Contractor

Opening Statements: The conference usually begins with opening statements from the DOE representatives outlining the purpose of the meeting and the specific allegations of noncompliance.

Presentation of Evidence: Both parties are given the opportunity to present their evidence and perspectives. The contractor may explain their actions, provide context, and discuss any mitigating factors.

Discussion: The conference allows for a dialogue between the DOE and the contractor. Questions may be asked to clarify details, and both sides can discuss potential corrective actions and compliance measures.

Some behaviors can be useful in achieving a productive discussion. The participants should actively listen to understand and ask questions as needed to understand EA-10 inquiries and statements. The team should implement a mechanism to direct questions to the individual best equipped to respond. Responses should be truthful, direct, and concise. Participants should agree on a tactful response to provide information at a later time if the response is not readily available during the meeting. All participants should avoid speculation, defensiveness, and argumentativeness.

Contractors should be prepared to address the facts regarding the alleged noncompliance, potential enforcement actions, such as civil penalties, corrective action plans, or other measures to ensure compliance moving forward.

Closing: At the close of the meeting, the EA-10 team will describe the next steps in the process, including what the contractor can expect regarding the possible outcomes of the investigation and associated timelines (e.g., Enforcement Letter, PNOV, etc.). They may also note documentation that was requested or promised during discussions. Timelines are influenced by several factors because the outcome is subject to an extensive review and concurrence process before the Director of Enforcement or the NNSA Administrator signs the transmittal letter. The estimates provided in the conference reflect the conditions in place at that time.

As the contractor leaves the conference, participants usually shake hands and conversations with one or two other individuals often occur. These can be opportunities to personalize the key points of the presentation, note areas of agreement or learning, and to express appreciation for the opportunity.

Documentation: Enforcement Conferences are a forum for candid conversation, and no voice recording will be allowed or automated transcript created for the meeting. An Enforcement Officer may take notes. Contractors should also identify someone to take notes both as a reference for the participants and to ensure any commitments are noted.

DOE Office of Enforcement and other DOE or NNSA Officials Post Conference Meeting

Officials from EA-10, responsible for overseeing the enforcement process and evaluating findings from the Enforcement Conference, participate in the post-conference meeting with the site's Federal

oversight. This meeting serves as a critical opportunity for the involved parties to review the outcomes and discussions from the Enforcement Conference. During the meeting, DOE or NNSA representatives assess the information presented, including evidence and perspectives shared by the contractor or organization. The primary focus is on determining appropriate enforcement actions based on the findings, which may involve issuing a NOV, imposing penalties, or requiring corrective actions. The meeting also emphasizes the importance of clear communication regarding the next steps in the enforcement process, ensuring that all parties understand their responsibilities moving forward. Documentation of the meeting's proceedings is maintained for transparency and compliance, and any necessary follow-up actions are outlined to enhance safety and regulatory adherence in the future. Overall, the post-conference meeting is essential for reinforcing the commitment to safety, security, and effective regulatory oversight.

After the Conference – Contractors

Some contractors go from the contractor portion of the conference to a debrief where participants review impressions, identify key takeaways, and consider any resulting action items. The location for the debrief should be far enough away from the conference to be considered private. Just as DOE is considering their options in the post conference meeting, contractor participants will want to review the potential outcomes and potential responses.

One of the key purposes of an Enforcement Conference is to gather additional information that will help determine the appropriateness and extent of any enforcement action. Additional requests from EA-10 may arise during the conference, or speakers might offer to provide documentation. The contractor Enforcement Coordinator will establish the appropriate method for providing the information.

The method may include setting up an electronic location where all related information, including that from the Enforcement Conference, is maintained. The Enforcement Coordinator is responsible for ensuring that all requests or offerings identified during the conference are documented and tracked to completion.

Documentation should include, at a minimum:

- A list of all information to be provided to EA-10.
- The person responsible for providing the information to the Enforcement Coordinator for distribution.
- The documentation required to meet the request or offering.
- The recipient of the information.
- The target date for providing the information.
- The date the information is provided.

The Enforcement Coordinator manages the information transmittals and documents the dates on which information is provided.

Information provided to EA-10 must be complete, accurate, and timely information. Enforcement action may be taken for unintentional, incomplete or inaccurate oral or written statements provided to the DOE by an official of the DOE or NNSA contractor or others on their behalf. If such an unintentional, incomplete or inaccurate statement is made, the error should be acknowledged as soon as possible and corrected information should be provided.

Obtaining information through informal, cooperative means is the most efficient process for both EA-10 and the contractor. If a contractor is reluctant to provide any requested documentation—whether before, during, or after the investigation—the Director is empowered by various sections (820.8(a) and 820.21(h) for nuclear safety, 824.5 for classified information security, 851.40(k) for worker safety and health, and 1017.29(f) for UCNI) to obtain it by issuing a subpoena, if necessary. *DOE Enforcement Process Overview, January 2021, p. 27.*

After the Conference – Office of Enforcement

The DOE representatives will review all the information presented during the conference, including evidence, statements, and any corrective actions proposed by the contractor or organization involved.

This evaluation helps the DOE determine the validity of the allegations of noncompliance and assess the overall impact on safety and health or control of information.

Based on the evaluation, EA-10 will provide its conclusions regarding the alleged noncompliance and determine the appropriate enforcement action, if any. Possible outcomes may include:

- **Advisory Note:** Issued to the DOE/NNSA federal oversight FO.
- **Enforcement Letter:** Issued to the DOE/NNSA contractor or subcontractors.
- **Consent Order or Settlement Agreement:** This will typically include a monetary remedy and required corrective actions.
 - **Required Corrective Actions:** In Consent Orders and Settlement Agreements, EA-10 may mandate that the contractor implement specific corrective actions to address identified issues and prevent future occurrences.
- **Potential Notice of Violation:** The DOE may issue a PNOV documenting the specific violations and associated civil penalties. The contractor has the option to challenge the PNOV.
 - **Civil Penalties:** Financial penalties may be assessed for based on the severity of the violation and other relevant factors.

If an enforcement action is taken, it will include instructions on how the contractor can respond to EA-10.

References

Department of Energy, *Safety and Security Enforcement Process Overview*, January 2021

10 CFR 820.22 Informal conference.

The Director may convene an informal conference to discuss any situation that might be a violation of the Act or a DOE Nuclear Safety Requirement, its significance and cause, any correction taken or not taken by the person, any mitigating or aggravating circumstances, and any other useful information. The Director may compel a person to attend the conference. This conference will not normally be open to the public and there shall be no transcript.

10 CFR 820 APPENDIX A, Section VII

Should DOE determine, after completion of all assessment and investigation activities associated with a potential or alleged violation of DOE Nuclear Safety Requirements, that there is a reasonable basis to believe that a violation has actually occurred, and the violation may warrant a civil penalty or issuance of an enforcement order, DOE will normally hold an enforcement conference with the DOE contractor involved prior to taking enforcement action. DOE may also elect to hold an enforcement conference for potential violations which would not ordinarily warrant a civil penalty or enforcement order but which could, if repeated, lead to such action. The purpose of the enforcement conference is to assure the accuracy of the facts upon which the preliminary determination to consider enforcement action is based, discuss the potential or alleged violations, their significance and causes, and the nature of and schedule for the DOE contractor's corrective actions, determine whether there are any aggravating or mitigating circumstances, and obtain other information which will help determine the appropriate enforcement action.

(b) DOE contractors will be informed prior to a meeting when that meeting is considered to be an enforcement conference. Such conferences are informal mechanisms for candid pre-decisional discussions regarding potential or alleged violations and will not normally be open to the public. In circumstances for which immediate enforcement action is necessary in the interest of public or worker health and safety, such action will be taken prior to the enforcement conference, which may still be held after the necessary DOE action has been taken.

10 CFR 824, Appendix A, Section VI

Should DOE determine, after completion of all assessment and investigation activities associated with a potential or alleged violation of classified information security requirements, that there is a reasonable basis to believe that a violation has actually occurred, and the violation may warrant a civil penalty, DOE will normally hold an enforcement conference with the DOE contractor involved prior to taking enforcement action. DOE may also elect to hold an enforcement conference for potential violations which would not ordinarily warrant a civil penalty but which could, if repeated, lead to such action. The purpose of the enforcement conference is to assure the accuracy of the facts upon which the preliminary determination to consider enforcement action is based, discuss the potential or alleged violations, their significance and causes, and the nature of and schedule for the DOE contractor's corrective actions, determine whether there are any aggravating or mitigating circumstances, and obtain other information which will help determine the appropriate enforcement action.

b. DOE contractors will be informed prior to a meeting when that meeting is considered to be an enforcement conference. Such conferences are informal mechanisms for candid pre-decisional discussions regarding potential or alleged violations and will not normally be open to the public. In circumstances for which immediate enforcement action is necessary in the interest of the national

security, such action will be taken prior to the enforcement conference, which may still be held after the necessary DOE action has been taken.

10 CFR 851.40(h)

The Enforcement Director may convene an informal conference to discuss any situation that might be a violation of a requirement of this part, its significance and cause, any corrective action taken or not taken by the contractor, any mitigating or aggravating circumstances, and any other information. A conference is not normally open to the public and DOE does not make a transcript of the conference. The Enforcement Director may compel a contractor to attend the conference.

10 CFR 851 Appendix B, Section VII Enforcement Conferences

(a) The purpose of the enforcement conference is to:

(1) Assure the accuracy of the facts upon which the preliminary determination to consider enforcement action is based;

(2) Discuss the potential or alleged violations, their significance and causes, and the nature of and schedule for the DOE contractor's corrective actions;

(3) Determine whether there are any aggravating or mitigating circumstances; and

(4) Obtain other information which will help determine whether enforcement action is appropriate and, if so, the extent of that enforcement action.

(b) All enforcement conferences are convened at the discretion of the Enforcement Director.

(c) The PNOV will normally be issued promptly, before the opportunity for an enforcement conference, following the inspection/investigation. In some cases an enforcement conference may be conducted onsite at the conclusion of an inspection/investigation.

(d) The contractor may request an enforcement conference if they believe additional information pertinent to the enforcement action could best be conveyed through a meeting.

(e) DOE contractors will be informed prior to a meeting when that meeting is considered to be an enforcement conference. Such conferences are informal mechanisms for candid discussions regarding potential or alleged violations and will not normally be open to the public. In circumstances for which immediate enforcement action is necessary in the interest of worker safety and health, such action will be taken prior to the enforcement conference, which may still be held after the necessary DOE action has been taken.