

Corrective Action Program Description



May 2002

Office of Safety Regulation

U.S. Department of Energy
Office of River Protection
P.O. Box 450, H6-60
Richland, Washington 99352

Approved: _____

Date: _____

PREFACE

As directed by Congress in Section 3139 of the *Strom Thurmond National Defense Authorization Act for Fiscal Year 1999*, the U.S. Department of Energy (DOE) established the Office of River Protection (ORP) at the Hanford Site to manage the River Protection Project (RPP), formerly known as the Tank Waste Remediation System. ORP is responsible for the safe storage, retrieval, treatment, and disposal of the high level nuclear waste stored in the 177 underground tanks at Hanford.

The initial concept for treatment and disposal of the high level wastes at Hanford was to use private industry to design, construct, and operate a Waste Treatment Plant (WTP) to process the waste. The concept was for DOE to enter into a fixed-price contract for the Contractor to build and operate a facility to treat the waste according to DOE specifications. In 1996, DOE selected two contractors to begin design of a WTP to accomplish this mission. In 1998, one of the contractors was eliminated, and design of the WTP was continued. However, in May 2000, DOE chose to terminate the privatization contract and seek new bidders under a different contract strategy. In December 2000, a team led by Bechtel National, Inc. was selected to continue design of the WTP and to subsequently build and commission the WTP.

On January 10, 2001, the U.S. Department of Energy published the revised Nuclear Safety Management rule, 10 CFR 830. This rule, in Subpart B, "Safety Basis Requirements," established specific requirements for the establishment and maintenance of the safety basis of DOE nuclear facilities, including the River Protection Project Waste Treatment Plant (RPP-WTP) project.

A key element of the River Protection Project Waste Treatment Plant (RPP-WTP) is DOE regulation of safety through a specifically chartered, dedicated Office of Safety Regulation (OSR). The OSR reports directly to the ORP Manager. The regulation by the OSR is authorized by the document entitled *Policy for Radiological, Nuclear, and Process Safety Regulation of the River Protection Project Waste Treatment Plant Contractor* (DOE/RL-96-25) (referred to as the Policy) and implemented through the document entitled *Memorandum of Agreement for the Execution of Radiological, Nuclear, Process Safety Regulation of the RPP-WTP Contractor* (DOE/RL-96-26) (referred to as the MOA). These two documents provide the basis for the safety regulation of the RPP-WTP at Hanford, including the implementation of regulatory requirements such as 10 CFR 830.

The foundation of both the Policy and the MOA is that the mission of removal and immobilization of the existing large quantities of tank waste by the RPP-WTP Contractor must be accomplished safely, effectively, and efficiently.

The Policy maintains the essential elements of the regulatory program established by DOE in 1996 for the privatization contracts. The MOA clarifies the DOE organizational relationships and responsibilities for safety regulation of the RPP-WTP. The MOA provides a basis for key DOE officials to commit to teamwork in implementing the policy and achieve adequate safety of RPP-WTP activities.

The Policy, the MOA, the RPP-WTP Contract, and the four documents incorporated in the Contract define the essential elements of the regulatory program being executed by the OSR. The four

documents incorporated into the Contract (and also in the MOA) are as follows:

Concept of the DOE Process for Radiological, Nuclear, and Process Safety Regulation of the RPP Waste Treatment Plant Contractor, DOE-96-0005,

DOE Process for Radiological, Nuclear, and Process Safety Regulation of the RPP Waste Treatment Plant Contractor, DOE/RL-96-0003,

Top-Level Radiological, Nuclear, and Process Safety Standards and Principles for the RPP Waste Treatment Plant Contractor, DOE/RL-96-0006, and

Process for Establishing a Set of Radiological, Nuclear, and Process Safety Standards and Requirements for the RPP Waste Treatment Plant Contractor, DOE/RL-96-0004.

DOE patterned its safety regulation of the RPP-WTP Contractor to be consistent with the concepts and principles of good regulation (reliability, clarity, openness, efficiency, and independence) used by the Nuclear Regulatory Commission (NRC). In addition, the DOE principles of integrated safety management were built into the regulatory program for design, construction, operation, and deactivation of the facility. The regulatory program for nuclear safety permits waste treatment services to occur on a timely, predictable, and stable basis, with attention to safety consistent with that which would occur from safety regulation by an external agency. DOE established OSR as a dedicated regulatory organization to be a single point of DOE contact for nuclear safety oversight and approvals for the WTP Contractor. The OSR performs nuclear safety review, approval, inspection, and verification activities for ORP using the NRC principles of good regulation while defining how the Contractor shall implement the principles of standards-based integrated safety management.

A key feature of this regulatory process is its definition of how the standards-based integrated safety management principles are implemented to develop a necessary and sufficient set of standards and requirements for the design, construction, operation, and deactivation of the RPP-WTP facility. This process meets the expectations of the DOE necessary and sufficient closure process (subsequently renamed Work Smart Standards process) in DOE Policy 450.3, *Authorizing Use of the Necessary and Sufficient Process for Standards-based Environment, Safety and Health Management*, and is intended to be a DOE approved process under DOE Acquisition Regulations, DEAR 970.5204-2, *Laws, Regulations and DOE Directives*, Section (c). DOE approval of the contractor-derived standards is assigned to the OSR.

The RPP-WTP Contractor has direct responsibility for WTP safety. DOE requires the Contractor to integrate safety into work planning and execution. This integrated safety management process emphasizes that the Contractor's direct responsibility for ensuring that safety is an integral part of mission accomplishment. DOE, through its safety regulation and management program, verifies that the Contractor achieves adequate safety by complying with approved safety requirements.

This page intentionally left blank.

Table of Contents

1.0	INTRODUCTION	1
1.1	Background	1
1.2	Document Contents	3
2.0	PURPOSE	3
3.0	OBJECTIVES	3
4.0	SUMMARY	4
5.0	AUTHORITY	6
5.1	Assignment of Authority and Responsibility by DOE	7
5.2	DOE Enforcement Responsibility	7
6.0	REGULATORY/SAFETY CONCERN INFORMATION (RSCI)	8
6.1	Receipt of RSCI	8
6.2	RSCI Evaluation	8
7.0	CORRECTIVE AND ENFORCEMENT ACTIONS	9
7.1	Immediate Actions	9
7.2	Contractor Notification of Findings	10
7.3	Issuance of Corrective Action Notices	10
7.4	ORP Regulatory Actions	11
7.5	DOE Enforcement Actions	11
7.6	Modification of Requirements	12

This page intentionally left blank.

CORRECTIVE ACTION PROGRAM DESCRIPTION

1.0 INTRODUCTION

1.1 BACKGROUND

The nuclear, radiological, and process safety regulation of the River Protection Project Waste Treatment Plant (RPP-WTP) Contractor is performed under the authority of the Contract,¹ statutes, and nuclear safety regulations promulgated by DOE. The RPP-WTP Regulatory Program is administered by the Office of Safety Regulation (OSR) of the Office of River Protection and has the following Policy Objectives:²

1. Ensure the activities of the RPP-WTP Contractor provide for adequate safety of the workers and the public by (a) applying the integrated safety management process which includes following the contractually prescribed process for requirements and standards identification and selection; (b) complying with applicable laws, and regulations; and (c) conforming to DOE-stipulated overall safety standards and principles.
2. Enhance confidence in the radiological, nuclear, and process safety of the RPP-WTP Contractor's activities.
3. Provide predictability and stability of radiological, nuclear, and process safety regulation through application of proven regulation concepts, principles, and experience.

The regulatory approach taken to achieve these objectives is described by four documents incorporated into the Contract. These documents address the Regulatory Concept,³ Regulatory Process,⁴ Top-Level Safety Standards and Principles,⁵ and the Standards Identification Process.⁶ The OSR Regulatory Program relies on the recognition that the RPP-WTP Contractor is directly responsible for the safety of the facility.⁷ The OSR employs a broad regulatory approach to ensure the safety performance of the Contractor, including the following elements.

1. *Identification of Regulatory Expectations*

Regulatory expectations are identified in the form of Contract conditions; applicable

¹ Contract DE-AC27-01RV14136 between DOE and BNI, Inc. dated December 11, 2000.

² DOE/RL-96-25, *Policy for Radiological, Nuclear, and Process Safety Regulation of the River Protection Project Waste Treatment Plant Contractor*, (Policy), Rev. 1.

³ DOE/RL-96-0005, *Concept of the DOE Regulatory Process for Radiological, Nuclear, and Process Safety Regulation of the RPP Waste Treatment Plant Contractor*, (Regulatory Concept), Rev. 2.

⁴ DOE/RL-96-0003, *DOE Process for Radiological, Nuclear, and Process Safety Regulation of the RPP Waste Treatment Plant Contractor*, (Regulatory Process), Rev. 2.

⁵ DOE/RL-96-0006, *Top-Level Radiological, Nuclear, and Process Safety Standards and Principles for the RPP Waste Treatment Plant Contractor*, (Top-Level Safety Standards and Principles), Rev. 2.

⁶ DOE/RL-96-0004, *Process for Establishing a Set of Radiological, Nuclear, and Process Safety Standards and Requirements for the RPP Waste Treatment Plant Contractor*, (Standards Identification Process), Rev. 2.

⁷ Top-Level Safety Standards and Principles, 4.1.2.1, "Safety Responsibility."

laws, rules, and regulations; Top-level Safety Standards and Principles; the authorization basis⁸, authorization agreements; and commitments from the Contractor regarding its regulated activities. It is noteworthy that, as described in Policy Objective 1, the assurance of adequate safety is a regulatory expectation in addition to full compliance with applicable laws, regulations, and requirements; and conformance to DOE-stipulated overall safety standards and principles. This recognizes that full compliance and conformance are expected first steps toward demonstrating adequate safety but are not, in themselves, exhaustive steps. Compliance and conformance necessarily rely on recognizing a hazard exists or has the potential to exist and a requirement has been developed to control the hazard. Therefore, in addition to such compliance and conformance, assurance of adequate safety is provided by early identification and control of unanticipated challenges to safety for which no controlling requirement has been identified.

The OSR determinations and decisions regarding Contractor regulated activities are dependent on information provided by the Contractor. Accordingly, a fundamental regulatory expectation is that information submitted to the OSR by the Contractor, or required by the OSR to be maintained by the Contractor, be (1) timely and (2) complete and accurate in all material respects.

2. *Authorization of Contractor Activities*

Consistent with the DOE proactive and preventive approach to regulation, the regulatory program includes ORP authorization of certain activities before the Contractor begins the activity. This authorization occurs after the Contractor has convinced DOE that the Contractor has the capacity, resources and commitment to meet Policy Objective 1.

3. *Determination of Contractor Performance*

The Regulatory Program relies significantly on determination by the OSR that the Contractor is performing in accordance with regulatory expectations. An array of sources contributes to the information reviewed by the OSR to make this determination. The Contractor's primary sources include the Contractors' internal safety oversight and reporting processes and the OSR inspection program. Other sources of information include allegations, media reports, relevant industry experience and events, and information from the public, stakeholders, or other government entities.

4. *Corrective Action*

Although the dominant focus of the regulatory approach is to prevent safety problems rather than react to problems once they occur, the regulatory program also includes elements responsive to the failure of the Contractor to meet regulatory expectations. When it appears or is determined the Contractor has not met regulatory expectations, the OSR will undertake actions intended to result in the Contractor meeting these expectations. These actions are set forth in this Corrective Action Program.

⁸ The "authorization basis" is defined in Top-Level Safety Standards and Principles and is described in detail in RL/REG-97-13, *Office of Safety Regulation Position on Contractor-Initiated Changes to the Authorization Basis*.

1.2 DOCUMENT CONTENTS

This document describes the OSR Corrective Action Program. The Summary section describes, in general terms, the bases and the principal attributes of the program. The Authority section details the policy, contractual, and regulatory framework of the program. Subsequent sections describe the approach that will be taken by the OSR to obtain and evaluate information relative to the regulatory expectations of the facility, and options available to ensure corrective actions.

2.0 PURPOSE

The purpose of the Corrective Action Program is to provide a process to ensure the Contractor meets its responsibility to provide for adequate safety of the workers and the public, and comply with applicable laws and legal requirements. This includes the approach taken by the OSR and the bases for the approach.

3.0 OBJECTIVES

The objectives of the Corrective Action Program are to:

- Ensure failures to meet regulatory expectations are promptly identified and appropriate corrective actions are taken.
- Enhance confidence in the safety of the Contractor's activities by ensuring the authorization basis on which the OSR bases its regulatory decisions is continuously maintained and documented by the Contractor.
- Provide a stable and defined process, consistent and linked with the DOE enforcement program, and results in timely and even-handed corrective actions and enforcement actions where failures to meet regulatory expectations are determined.
- Provide an open record available to the public of the continuing safety and regulatory performance of the Contractor, while ensuring limited rights data is handled in a consistent manner as prescribed in the Contract.
- Emphasize Contractor regulatory expectations, timely corrective actions in a manner that precludes recurrence, and identification of changes in activities that will lead to continuing full achievement of regulatory expectations by the Contractor.
- Achieve early proactive actions to avoid interruptions of Contractor activities due to deterioration of safety/regulatory processes and deterioration of implementation of processes.

4.0 SUMMARY

The Contractor has direct responsibility for safety of the RPP-WTP facility. In discharging its responsibility for ensuring the Contractor is meeting regulatory expectations, the OSR has established its Corrective Action Program to cause corrective actions and assure effective regulatory action when the Contractor fails to meet regulatory expectations. A basic tenet of safety regulation is that the Contractor shall not profit more by noncompliance than by compliance. Further, the Contractor should benefit by placing appropriate emphasis on safety. These are targets of the program.

The Corrective Action Program also links with the DOE enforcement program which is administered under the Director, Office of Price-Anderson Enforcement (PA-Enforcement). The basis for enforcement actions under the DOE enforcement program is noncompliance with "nuclear safety requirements," as described in 10 CFR 820.

While the OSR program reaches beyond "nuclear safety requirements" to "regulatory expectations," the goal of the program is consistent with the relevant DOE enforcement policy which states, in part:

"The single most important goal of the DOE enforcement program is to encourage early identification and reporting of nuclear safety deficiencies and violations of DOE Nuclear Safety Requirements by the DOE Contractors themselves rather than by DOE, and the prompt correction of any deficiencies and violations so identified. DOE believes that the Contractors are in the best position to identify and promptly correct noncompliance with DOE Nuclear Safety Requirements."⁹

Consistent with this policy, the Corrective Action Program focuses dominantly on prompt and sufficient corrective action by the Contractor to correct failures to meet regulatory expectations however identified. These corrections are aimed at the Contractor continuously meeting regulatory expectations. The Corrective Action Program is consistent with the DOE enforcement program and associated policy¹⁰ in that the OSR actions taken under its program are tailored to the overall significance of the failure, including consideration of safety significance and the effectiveness of Contractor safety management. Important to the actions taken by OSR and the DOE are the actions and attitudes of the Contractor in response to the failure. The appropriate Contractor behavior in such circumstances is aggressive root cause analysis and corrective actions planning and implementation. Particularly important in dealing with these matters is the impact of the failure on the safety/authorization basis that supports any authorization agreement between the Contractor and the DOE. A basic concept of the DOE enforcement program and the OSR program is the responsibility of the Contractor to have established and implemented processes for timely self-identification, open and prompt reporting, and comprehensive correction of conditions resulting in a failure to meet regulatory expectations.

In fulfilling its responsibility for safety, the Contractor implements safety management processes as described in the Integrated Safety Management Plan (ISMP) that address the identification

⁹ Excerpt from 10 CFR 820, Appendix A, "General Statement of Enforcement Policy," Section 2.e

¹⁰ 10 CFR 820, Appendix A, "General Statement of Enforcement Policy"

and correction of conditions that are adverse to safety or otherwise inconsistent with regulatory

expectations. The OSR conducts oversight of these Contractor safety management processes. OSR oversight includes monitoring the identification, implementation, and effectiveness of corrective actions taken by the Contractor to correct and prevent recurrence of failures to meet regulatory expectations.

The OSR, in its inspection program, may identify situations where the Contractor has failed to meet regulatory expectations. In such instances, a determination as to how to handle the finding will be based on the significance of the finding, and the Contractor's role in identification, documentation, and corrective action related to the issue in question. If the finding is of minor significance, it will not normally be documented, nor will there be any further communication with the Contractor. If the finding is not minor, other factors (e.g., the safety or regulatory significance, the method of discovery, the adequacy of reporting and tracking, the timeliness of corrective action) will be reviewed to determine if a response is necessary from the Contractor. If it is determined that a response is necessary, the Contractor will be advised of the finding, and will be requested to provide a written response describing the corrective action taken or planned and the date such action will be completed.

The OSR will continuously evaluate information it receives while implementing the WTP regulatory program to determine if the Contractor is meeting regulatory expectations. If it is not, a determination will be made as to whether the Contractor had already identified this situation and entered it into its corrective action tracking system, and if entered into the system, whether corrective actions are appropriate and have been completed. If the Contractor has not already identified and acted on the situation, the Contractor may, depending on the safety and regulatory significance of the situation, be advised of the situation and requested to provide a written response describing the corrective action taken or planned.

If the OSR determines that failures to meet regulatory expectations represent significant safety issues, are repetitive in nature, or show a consistent failure on the Contractor's part to identify and correct problems, a determination will be made whether the circumstances warrant additional regulatory action to cause the Contractor to take appropriate corrective action. The next step in the process will be the issuance, by the Manager, Office of River Protection, of a Corrective Action Notice (CAN) to the Contractor. The CAN will describe the Contractor's failures to meet regulatory expectations, and request the Contractor to provide planned corrective actions. If appropriate, more significant regulatory actions will be taken by ORP or PA-Enforcement. These Actions could include the withholding of an authorization or stop work order under provisions of the Contract or enforcement actions including Notices of Violation, Civil Penalties, Compliance Orders or referral to the Department of Justice for criminal investigation as provided in 10 CFR 820.

5.0 AUTHORITY

This section describes the authorities and responsibilities assigned by the DOE to the OSR, and the DOE regulatory bases for the Corrective Action Program approach described in this document.

5.1 ASSIGNMENT OF AUTHORITY AND RESPONSIBILITY BY DOE

The Memorandum of Agreement for the Execution of Radiological, Nuclear, and Process Safety Regulation of the River Protection Project Waste Treatment Plant Contractor,¹¹ Section 3.2, states that "...the Manager of ORP is responsible and accountable for formulation and execution of the program for the radiological, nuclear, and process safety regulation of the RPP-WTP Contractor." It also states that "the ORP Manager specifically shall assign safety regulation of the RPP-WTP Contractor to the Safety Regulation Official (SRO) on the ORP staff. Section 3.2.1 of that document addresses the specific duties assigned to the SRO. Included in those activities are "(1) reviews of safety submittals, (2) preparation of safety evaluation reports, (3) preparation of Authorization Agreements, and (4) oversight activities." DOE/RL-96-0003 expands on the oversight functions and specifies that this includes the areas of performing in-facility inspections and corrective actions. The SRO is also responsible to refer to PA-Enforcement situations that involve potential violations of nuclear safety requirements.

5.2 DOE ENFORCEMENT RESPONSIBILITY

The RPP-WTP Contractor is indemnified under the Price-Anderson Amendments Act (PAAA).¹² The PAAA subjects DOE indemnified contractors, subcontractors, and suppliers to potential civil and criminal penalties for violations of DOE rules, regulations, and compliance orders relating to nuclear safety requirements. As part of its agreement to continue the indemnification coverage, Congress mandated that DOE enforce nuclear safety requirements to minimize the risk to workers and the public. The procedural rules and policy associated with the DOE's enforcement authority are established in 10 CFR 820, Appendix A, "General Statement of Enforcement Policy." 10 CFR Part 820.20(b) defines DOE nuclear safety requirements as the following:

- (a) DOE nuclear safety rules set forth in the following CFR.
 - 10 CFR 820, "Procedural Rules for DOE Nuclear Activities"
 - 10 CFR Part 830, "Nuclear Safety Management"
 - 10 CFR 835 "Occupational Radiation Protection"; and
 - 10 CFR 708 "Contractor Employee Protection."
- (b) Any DOE-approved program (including any commitment therein), plan, or other provision required to implement any nuclear safety requirement or Compliance Order identified above.

Implementation of the DOE enforcement program is described in the following DOE guidance documents:

- Operational Procedures For Enforcement, Office of Enforcement and Investigation, June 1988 (supercedes DOE-HDBK-1085-95, "DOE Enforcement Program Rules and

¹¹ DOE/RL-96-26, *Memorandum of Agreement for the Execution of Radiological, Nuclear, and Process Safety Regulation of the River Protection Project Waste Treatment Contractor*, (MOA), Rev. 1.

¹² 42 U.S.C 2282a

Responsibilities")

- DOE-HDBK-1087-95, "Enforcement Handbook - Enforcement of DOE Nuclear Safety Requirements"
- Identifying, Reporting, and Tracking Nuclear Safety Noncompliances , Office of Enforcement and Investigation, June 1988 (supercedes DOE-HDBK-1089-95, "Guidance for Identifying, Reporting and Tracking Nuclear Safety Noncompliances.")

6.0 REGULATORY/SAFETY CONCERN INFORMATION (RSCI)

RSCI is information that raises a concern regarding Contractor achievement of regulatory expectations. With regard to RSCI, the basic elements of the OSR as related to the Corrective Action Program are receipt of information, evaluation to determine its applicability to the safety and regulatory requirements of the RPP-WTP facility, and initiation of actions to ensure that any impact on regulatory expectations is addressed.

6.1 RECEIPT OF RSCI

RSCI may be received from a variety of sources. Consistent with DOE policy, the goal of the Corrective Action Program is to ensure that the main source of RSCI will be reports from the Contractor through its management processes including (1) Quality Assurance inspections and audits, (2) internal safety oversight, (3) operational event reporting, and (4) employee concerns program. RSCI will also be received through the OSR inspection program. Other potential sources of information include, but are not limited to the following:

- Inspections or assessments performed by regulatory or independent oversight entities other than the OSR
- Concerns received through the DOE Employee Concerns Program
- Media reports on Contractor activities
- Relevant industry "lessons learned" information
- Information and inquiries from public, governmental, or stakeholder entities.

6.2 RSCI EVALUATION

The OSR will evaluate the RSCI to determine the following:

- Whether an imminent hazard exists
- The safety significance of the RSCI

- Whether and on what priority corrective actions should be performed by the Contractor to meet regulatory expectations
- If the RSCI potentially involves a noncompliance with DOE nuclear safety requirements.

Based on the evaluation of the RSCI, a determination will be made as to action necessary to achieve appropriate corrective action. Considerations will involve the safety and regulatory significance, the relationship of the RSCI to an event or occurrence, the Contractor's identification of problems through its management processes and reporting of information, the extent to which the problem was avoidable, and the adequacy and timeliness of corrective actions. Evaluations of information that result in a determination that the safety significance of RSCI is below the threshold of concern will result in no further action, or may be referred to the Contractor for consideration if the information came from some other source. Employee concerns will be handled in accordance with the DOE Employee Concerns Program. Concerns received by this program will be evaluated, and safety concerns related to the radiological, nuclear and process safety aspects of the RPP-WTP Contractor will be provided to the OSR for assessment. The communication process and the description of OSR actions in such cases is described in Management Directive 1.8, "Employee Concern Resolution."

7.0 CORRECTIVE AND ENFORCEMENT ACTIONS

The actions described below are intended to focus attention on prompt and sufficient corrective action by the Contractor to correct failure to meet regulatory expectations. The actions are intended to achieve correction of any problem that has safety implications, with the timeliness of that correction dependent on the safety significance. Further, these actions are intended to achieve improvements in the Contractor's program for self-identification and timely correction of safety and regulatory issues. These actions vary dependent upon the safety and regulatory significance of the issue. Issues of greater significance will result in actions which provide greater incentives for correction. These actions are specifically described below.

7.1 IMMEDIATE ACTIONS

In the event that the situation presents an imminent environmental, health, or safety hazard, immediate actions should be taken to eliminate or mitigate the hazard.¹³ If discovered on site, prompt notification of Contractor management would be the first step to be taken. In any situation, the management of OSR, ORP, and PA-Enforcement should be promptly notified. Following mitigation of the hazard, inspection activity will delve into the causes of the situation. Subsequent corrective and enforcement action will depend on the nature of the hazard and its cause, and could include one or more of the regulatory actions described in subsequent sections.

¹³ DOE Contract DE-AC27-01RV14136, Section H.25

7.2 CONTRACTOR NOTIFICATION OF FINDINGS

Findings identified during an inspection will be evaluated to determine if they should be submitted to the Contractor for additional input. The first issue to be considered is the significance of the finding. Areas of consideration for this determination include the actual or potential impact on safety, indications of a programmatic problem, the possibility that the finding could be a precursor to a significant event, safety or regulatory implications if the finding was to recur or if there were inadequate corrective actions, the other circumstances related to the Contractor's role in causing or allowing the situation to occur. If the findings are determined to be of minor significance, no written notification to the Contractor would be warranted, and the items would likely not be addressed in the report.

For findings determined to be of more than minor significance, an evaluation will be made to determine if these should be sent to the Contractor for additional input. Areas of consideration for this determination include the manner in which the finding was identified, whether the finding involves a programmatic breakdown or a repetitive problem which should have been identified by the Contractor's corrective action program, the Contractor's actions to report and track the finding, the timeliness and adequacy of corrective actions taken or planned, and any indications of willfulness or wrongdoing. If the problem occurred inadvertently, and was isolated in nature, not of great safety significance, and properly documented and followed-up (if identified by the Contractor), it would be considered a "non-cited finding." The circumstances surrounding the issue would be documented in the report, but the Contractor would not be asked to provide any additional information regarding corrective actions.

If the issue does not meet the guidance for a non-cited finding, it will be identified to the Contractor in a letter that transmits the inspection report. The letter and supporting information in the report will identify the requirement and describe the Contractor's failure to meet that requirement. A response will be requested describing the Contractor's plans to correct the matter and the expected completion date for such corrective actions. Follow-up inspections will normally confirm the corrective action taken by the Contractor. It is expected that the vast majority of regulatory issues will be resolved in this manner.

7.3 ISSUANCE OF CORRECTIVE ACTION NOTICES

If the OSR determines that the inspection findings represent significant safety issues, are repetitive in nature, or show a consistent failure on the Contractor's part to identify and/or correct problems, a determination will be made whether the circumstances warrant additional regulatory action. The next step in the process will be the issuance, by the Manager, Office of River Protection, of a Corrective Action Notice (CAN) to the Contractor. The CAN will describe the Contractor's failures to meet regulatory expectations. The issuance of a CAN may be accompanied with a top-level management meeting to discuss the issues identified. The purpose of this action is to clearly identify the problems and achieve improvements in the Contractor's program to achieve self-identification and timely correction of safety and regulatory issues.

If the Contractor replies satisfactorily to the CAN, the OSR accepts and records the response. Based on the significance of the issue of concern and the performance of the Contractor in

achieving corrective action, the OSR determines whether to recommend additional regulatory action, such as withholding of an authorization or issuance of a Stop Work Order by ORP, as provided by the Contract. The OSR may also recommend that the matter be referred to PA-Enforcement for enforcement action under the provisions of 10 CFR 820, Subpart A. OSR will provide PA-Enforcement with each CAN that is issued, as well as the Contractor's response to the CAN.

7.4 ORP REGULATORY ACTIONS

The ORP may initiate regulatory actions under the provisions of the Contract. The Contract provides that the Contractor must submit for ORP review and approval specific requests for Construction Authorization and for Hot Commissioning Authorization. As part of the approval process, as described in the *DOE Process for Radiological, Nuclear, and Process Safety Regulation of the RPP Waste Treatment Plant Contractor*, DOE/RL-96-0003, the OSR must determine that the Contractor's important-to-safety activities are being conducted in accordance with its approved SRD and ISMP. The Contractor's ongoing failure to meet its commitments in the SRD and/or ISMP may result in a determination by the ORP to withhold its approval of a request for Construction Authorization or Hot Commissioning Authorization.

The Contract also provides stop work authority. Section I, Clause I.117, references DEAR 970.5204-78 (subsequently changed to 970.5223-1), titled "Integration of Environment, Safety, and Health into Work Planning and Execution. Paragraph (d) states, in part, "The contractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements and the System. If the contractor fails to provide resolution or if, at any time, the contractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the contracting officer may issue a order stopping work in whole or in part." The "ES&H" requirements encompass the radiological, nuclear, and process safety requirements. The "System" refers to the safety management system, which in the case of the RPP-WTP Contractor is described in the Integrated Safety Management Plan.

7.5 DOE ENFORCEMENT ACTION

PA-Enforcement has the responsibility for DOE enforcement activities under the procedures of 10 CFR 820. The Contractor has the primary responsibility for identifying noncompliances with DOE nuclear safety rules and reporting these noncompliances to PA-Enforcement. Accordingly, once it has been determined that a noncompliance with nuclear safety rules exists, the Contractor will determine if reporting the noncompliance to PA-Enforcement is appropriate as described in the enforcement policy and guidelines.¹⁴ Reporting of noncompliances to PA-Enforcement is accomplished through the DOE Noncompliance Tracking System (NTS). The OSR also provides oversight to ensure that the Contractor has properly reported noncompliances with nuclear safety rules.

Noncompliances with nuclear safety rules, whether reported directly by the Contractor, or which

¹⁴ Identifying, Reporting, and Tracking Nuclear Safety Noncompliances, Office of Enforcement and Investigation, June 1988 (supercedes DOE-HDBK-1089-95)

surface during OSR oversight of the Contractor's program will be evaluated by PA-Enforcement to determine if enforcement action is appropriate. PA-Enforcement may initiate enforcement action on a matter based on recommendation by the OSR, or on its own initiative. These actions may include enforcement letters, notices of violation, and civil penalties.

If the OSR receives information that indicates that any person has, by act or omission, knowingly and willfully violated, caused to be violated, attempted to violate, or conspired to violate any section of the PAAA or a DOE nuclear safety requirement,¹⁵ the OSR will immediately provide all pertinent information to PA-Enforcement, and will consult with PA-Enforcement prior to taking any actions with the Contractor. This is to avoid compromise or conflict with investigations that may be undertaken with regard to the noncompliance.¹⁶ If the situation warrants, PA-Enforcement may initiate a Compliance Order or referral to the Department of Justice for criminal investigation as provided in 10 CFR 820.

For the RPP-WTP, the Verification and Confirmation Official (VCO) of the OSR is the PAAA Coordinator fulfilling the DOE PAAA Coordinator responsibilities described in DOE-HDBK-1087-95.¹⁷

7.6 MODIFICATION OF REQUIREMENTS

The review of events, or new safety related information received from research or industry experience could lead the OSR to conclude that new safety issues have been identified that are not addressed in existing regulations or authorization basis requirements. Such issues could impact on design, construction practices, testing, operation, training, or control processes. Changes in regulatory requirements may be required to ensure adequate safety. Such modifications would be taken in accordance with established back-fit¹⁸ and Contract modification procedures.

¹⁵ Criteria was derived from 10 CFR 820, Subpart F, "Criminal Penalties," Paragraph 820.71

¹⁶ Operational Procedures For Enforcement, Office of Enforcement and Investigation, June 1988 (supercedes DOE-HDBK-1085-95), Section 5.2

¹⁷ ORP M 450.1-1, "ORP Price-Anderson Amendments Act (PAAA) Implementation."

¹⁸ Management Directive 3.3, "New Safety Information and Back-fits"

This page intentionally left blank.