



PROCEDURE 442.1-1D

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Title:	ES&H EMPLOYEE CONCERNS PROGRAM
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1. **PURPOSE**

- a. To establish a process for employees to report ES&H concerns, conditions, or situations; to investigate the reports for accuracy and extent of impacts; and to ensure all useful information is distributed NETL wide.

2. **APPLICABILITY**

- a. This procedure applies to all NETL employees at all NETL sites.

3. **PROCEDURE**

- a. All findings, situations, or conditions that may be of concern in terms of safety, health, or environment must be reported if NETL is to continually improve its work environment. It is the responsibility of all NETL employees to assist with this process and report all concerns as follows:
 - (1) Report the ES&H concern to the appropriate line manager for resolution.
 - (2) If the line manager cannot resolve the concern to the employee's satisfaction and/or resolve the concern in a timely manner, contact the NETL safety and health manager (safety and health concerns) or the NETL environmental manager (environmental concerns).
- b. Reports of concern may be sent to the appropriate party by any method (email, mail, telephone, etc.). Reports may be anonymous, but anonymous reports must contain enough information to provide the start of an investigation. Such written reports shall include the grounds of the concern and the name of the employee or representative of the employee filing the report.
- c. If an employee filing a concern requests anonymity, the identity of the employee shall not be revealed to anyone other than an authorized representative of the Department of Labor or such other persons as authorized by the employee.
- d. For those concerns reported to the safety and health manager and/or the environmental manager, a determination will be made if the concern constitutes an imminent danger. If there is an imminent danger, any action necessary to protect people or the environment shall be taken immediately. If the imminent danger cannot be immediately mitigated, security shall be called from a safe location and the emergency response program activated.
- e. Employees or their representatives must provide enough information in order for onsite personnel or offsite agencies to determine that a hazard probably exists. Answers to the following questions may be helpful. It is not necessary to have the answers to all the questions in order to file a concern. The list is provided as a guide.

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- (1) How many employees work at the site and how many are exposed to the hazard?
- (2) How and when are workers exposed?
- (3) What work is performed in the unsafe or unhealthful area?
- (4) What type of equipment is used? Is it in good condition?
- (5) What materials and/or chemicals are used?
- (6) Have employees been informed or trained regarding hazardous conditions?
- (7) What process and/or operation is involved?
- (8) What kinds of work are done nearby?
- (9) How often and for how long do employees work at the task that leads to their exposure?
- (10) How long (to your knowledge) has the condition existed?
- (11) Have any attempts been made to correct the problem?
- (12) How many shifts work in the area and what times do they start? On what shifts does the hazard exist?
- (13) What personal protective equipment is required by the employer? Is the equipment used by the employees?
- (14) Has anyone been injured or made ill as a result of this problem?
- (15) Have there been any “near-miss” incidents?

The following are some additional specific questions for health hazards:

- (1) Has the employer conducted any tests to determine if employees are exposed to the hazardous **condition** or substance?
- (2) What are these tests and the results of the tests?
- (3) What steps has the employer taken, if any, to control the hazard?
- (4) Do any employees have any symptoms that they think are caused by the hazardous condition or substance?

- (5) Have any employees been treated by a doctor for a work-related disease or condition? What was it?

f. Safety, Health, and/or Environmental concerns shall be processed as follows:

- (1) All concerns shall be assigned to an ES&H program manager to investigate, and shall be compared to applicable codes, standards, regulations, specifications, industry standards, and/or DOE and NETL directives. An investigation shall be made:

- Immediately for imminent danger conditions;
- Within 3 working days for potentially serious conditions;
- Within 20 working days for all other conditions.

However, an investigation may not be necessary if, through normal management action and with prompt notification to employees, the hazardous condition(s) identified can be abated immediately.

- (2) The ES&H program manager shall report the results of his/her investigation to the NETL safety and health manager or environmental manager as appropriate.
- (3) If no action is to be taken on the concern, the ES&H program manager shall inform the NETL safety and health manager or environmental manager of the decision and the reasons for it.
- (4) The NETL safety and health manager or environmental manager shall:
 - (a) Within 15 days following an investigation (30 days for items dealing with health), report the concern and recommended mitigating actions to the responsible supervisor and employee or representative of the employee that provided the concern. The concern and actions shall be tracked in NETL's electronic corrective action tracking system. ES&H concerns shall be tracked until closure.
 - (b) If warranted based on the seriousness and/or applicability of the concern, send **an intranet posting** stating at least the:
 - Situation.
 - Investigation results.

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- NETL site employee to contact with more questions.
- Any mitigating actions approved by the supervisor.

- (5) If the employee believes that appropriate action is not being taken to investigate or correct the condition, the employee should report the condition to the Director of the Office of Institutional and Business Operations (OIBO) or the ES&H site committee. The concerned employee will also be advised if there are any offices with authority or responsibility for addressing the subject matter of the concerns.
- (6) The provisions and procedures in this document are not intended to prohibit a NETL employee or employee representative from utilizing other alternative dispute resolution processes in addition to or in lieu of making an ES&H concerns report with NETL and the Department of Labor.

g. ES&H concerns will be designated as closed when one of the following occurs:

- (1) The concern has been investigated; necessary corrective actions have been identified and implemented; and the resolution has been documented in the corrective action tracking system.
- (2) The concern has been investigated and no corrective action is deemed necessary.
- (3) The subject matter of the concern is outside the scope of the ES&H employee concerns program and the concern has been transferred to another organization with jurisdiction over the subject matter.
- (4) The ES&H division director determines that the issues are frivolous or too general to investigate; and
- (5) The concerned employee has been notified that the concern has been closed.

h. The ES&H division director is responsible for ensuring adherence to this procedure. The quality of the inspection/investigation is the sole responsibility of the safety and health or environmental manager who prepares the report.

4. **RESPONSIBILITIES**

a. **NETL Federal Safety and Health Manager and Environmental Manager**

- (1) Have the responsibility and authority to shut down projects or evacuate facilities if there is an imminent danger to people or the environment.

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- (2) Act as the principal, independent points-of-contact to investigate or oversee the investigation of reported ES&H concerns.
- (3) Maintain reports and investigations.
- (4) Report all recommended and unresolved mitigating actions to the ES&H division director, as described in this procedure.
- (5) Annually review reports for lessons learned and possible trends.
- (6) Verify that corrective actions are taken by DOE and DOE contractors to minimize, correct, or prevent recurrences.

b. Line Manager

- (1) Establish open communications to enable employees to raise concerns and to address the concerns of employees in a manner that protects the safety and health of employees and the environment and fosters the free flow of information without employees being subjected to reprisal for raising concerns.
- (2) Correct condition(s) immediately if the condition poses imminent danger to personnel, or remove personnel from the area if the condition cannot be immediately corrected.
- (3) Eliminate or reduce the unsafe, unhealthful, or environmental condition or hazard per recommendations of the employee concerns report.

c. ES&H Division Director

- (1) Serve as the designated official responsible for the overall implementation of the ES&H concerns program.
- (2) Assist in evaluation and resolution of employee ES&H concerns.
- (3) Ensure that employee concerns are processed as required by this procedure.
- (4) Transfer concerns to other programs or processes if the concern is deemed to be outside the scope of the ES&H concerns program.
- (5) Coordinate inspection and investigation activities conducted by offsite agencies (i.e., OSHA, EPA, etc.).

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d. Employees

- (1) Report any conditions or practices which they consider detrimental to safety and health or the environment **and/or** are in violation of NETL's ES&H directives.

5. **TRAINING**

- a. Employees shall **have access to this procedure to be able to know the process for submitting employee concerns**. The requirements and procedures described in this document **are also** part of ES&H orientation training.

6. **RECORD CONTROL**

Records created by this procedure and their retention schedules are:

- a. **Written reports about ES&H concerns are tracked in the corrective action tracking system, and the retention schedules for that system apply.**

7. **REQUIREMENTS**

- a. DOE Order 440.1, [Worker Protection Management for DOE Federal and Contractor Employees](#).
- b. NETL Order 442.1, [Employee Concerns Program](#).
- c. 29 CFR 1960.28, Employee Reports of Unsafe or Unhealthful Working Conditions.

8. **REFERENCES**

- a. DOE Order 442.1, [Department of Energy Employee Concerns Program](#).
- b. DOE Guide 442.1-1, [Department of Energy Employee Concerns Program Guide](#).
- c. Privacy Act of 1974, Public Law 93-502 (5 U.S.C. 552a), as amended.

9. **DEFINITIONS**

- a. Employee Concern — A good faith expression by an employee that a policy or practice of DOE or one of its contractors should be improved, modified, or terminated. These concerns are specific to issues involving safety, health, and the environment.
- b. Hazard — A **source or** situation, which if left unchanged, could result in the death, injury, or illness of personnel or damage to property or equipment. Hazards are further classified into imminent danger, serious, and other-than-serious.

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- (1) Imminent Danger Condition/Concern — Any condition or practice in any workplace that creates a danger that could reasonably be expected to cause death or serious physical harm immediately or before the onset of such danger could be eliminated through the normal procedural mechanism.
 - (2) Serious Condition/Concern — A hazard, violation, or condition that causes a substantial probability that death or serious physical harm, property loss, and/or environmental impact could result.
 - (3) Other-than-Serious Condition/Concern — Hazards, violations, or conditions that may not result in death or serious physical harm, property loss, and/or environmental impact but may have a direct and immediate relationship to worker safety and health or the environment.
- c. Investigation — An inquiry conducted for the purpose of evaluating and resolving a concern, usually involving interviews; inspection of relevant documents, sites, or equipment; and an evaluation of practices being followed.
 - d. Safety/Health/Environmental Alert — A NETL-wide notification of a problem with possible immediate safety, health, or environmental implications. Immediate action may be required on the part of the notification recipients.
 - e. Safety/Health/Environmental Notification — A NETL-wide notification of a problem with possible safety, health, or environmental implications. Because of low probability and/or impact, immediate action is not required on the part of the notification recipients.

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10. **REVISION HISTORY**

VERSION	DATE	SUMMARY OF CHANGES
Original	11/13/02	To set up a system for employees to report ES&H concerns, conditions, or situations; to investigate the reports for accuracy and extent of impacts; and to ensure all useful information is distributed NETL wide.
A	10/7/03	The following changes were initiated: the purpose was expanded to further describe the design of the ES&H concerns program, training requirements were developed, the procedure was enhanced to improve the accuracy, and define the closure process.
B	9/10/04	The number of the directive is being changed from the 450 series to the 442 series to be consistent with other directives in the same series.
C	8/17/05	Minor revisions were made to the quality control, document control, responsibilities, and procedure sections of the document.
D	2/26/07	The procedure has been updated to reflect new requirements and new methods of communications. Extraneous information has been removed to streamline the procedure. A flowchart of the process has been added.

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