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<b>Title: Control of Environmental Nonconformance</b>		

**1.0 PURPOSE:**

The purpose of this document is to define the procedure for processing environmental compliance nonconformance including identification, resolution, implementation of solution, re-inspection, and closure.

**2.0 RESPONSIBILITIES:**

**2.1 Environmental Compliance Manager/Staff (ECM)** – The ECM is responsible for:

- Reviewing the NCR and proposed resolution for compliance with all local, state, and federal regulations, and with any commitments entered into during planning phases of the project.

**2.2 Environmental Compliance Inspector (ECI)** – The ECI is responsible for:

- Ensuring that environmental nonconformance is controlled to prevent noncompliance with environmental regulations, permits, or commitments, and/or to minimize impact to the natural environment.
- Classifying the environmental issue in accordance with the definitions within this procedure.
- Proposing a resolution to correct the nonconformance, (on projects lacking an ECI, the ECM shall function in this role.)

**2.3 Construction Contractor** – The Construction Contractor is responsible for:

- Reviewing the proposed resolution within the NCR
- Implementation of proposed resolution

**2.4 Construction Manager** – The Construction Manager is responsible for:

- Reviewing and approval of proposed environmental nonconformance resolutions to ensure they are feasible.
- Submitting the approved resolution to the Construction Contractor for implementation
- Verifying that the approved resolution has been implemented.

**2.5 Nonconformance Report (NCR) Originator** – The (ECI) or Construction Manager shall be responsible for:

- Documentation of NCR if applicable

**2.6 NTTA Legal Counsel** – NTTA Legal Counsel (on Major Environmental Issues only) is responsible for:

- Review of the NCR and proposed resolution for legal sufficiency

**3.0 SCOPE/APPLICABILITY:**

This procedure shall apply to construction generated nonconformances with environmental laws, regulations, permits, commitments, or Authority environmental policies, on all Project Delivery projects.

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**4.0 REFERENCES:**

- [ENV-01](#) Storm Water Management

**5.0 DEFINITIONS & ACRONYMS**

- **Major Environmental Issue** – environmental issues involving a failure to implement a requirement of a standard or regulation such that there is a noncompliance with a Federal, state, or local regulation, or a violation of a commitment made during the project development and environmental documentation process; or multiple minor non-conformances within the same requirement. Examples include, but are not limited to, the following: (i) a violation exists that must be reported to a governmental entity, (ii) a permit or other authorization has not been obtained prior to starting work on a project, (iii) an unauthorized release to the environment has occurred which impacts adjoining property or must be reported to a governmental entity, and (iv) a default exists or a breach has occurred in an agreement between the Authority and a third-party due to the environmental issue.
- **Minor Environmental Issue** – environmental issues including a single lapse in fulfilling a requirement that will take some period of follow-up (generally longer than 24 hours) to remedy the situation. Such issues can also include observations of potential risk or opportunities for improvement, but do not typically include noncompliance with applicable Federal, state, or local regulations or environmental commitments associated with project environmental documentation.

**6.0 PROCEDURES:**

Environmental nonconformances are defined as the failure to comply with environmental laws, regulations, permits, commitments entered into by the Authority, or procedures of the Authority. Environmental nonconformance shall be defined as a Minor Environmental Issue or a Major Environmental Issue. Minor and Major Environmental Issues shall be documented as an NCR in accordance with the procedures set forth in this document.

- 6.1 Once a potential environmental nonconformance issue has been identified by either the Construction Manager or ECI, they shall review the potential NCR against plans and specifications; environmental laws, regulations, permits, and commitments; and the Authority’s environmental policies to determine if an NCR should be opened. The Construction Manager or ECI may consult with the ECM to assist in validating the potential NCR.
  - 6.1.1 Once an issue has been determined to be a true nonconformance, the ECI shall classify the nonconformance as a Minor Environmental Issue or a Major Environmental Issue. All confirmed Minor and Major Environmental Issues shall be documented as NCRs in EPDS system.
- 6.2 The ECI shall develop a proposed resolution to the nonconformance that remedies any nonconformance to environmental laws, regulations, permits, commitments, or the environmental policies of the Authority, and forward the NCR to the Construction Manager.

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- 6.2.1 The Authority's Legal Counsel shall be copied on the NCR transmission for Major Environmental Issues.
- 6.3** The Construction Manager shall review the recommended resolution and may approve or reject the NCR at this stage.
- 6.3.1 If the recommended resolution for a Major Environmental Issue is accepted, the NCR will be forwarded to Legal Counsel (Step 6.4).
- 6.3.2 If the recommended resolution for a Minor Environmental Issue is accepted, the NCR will be forwarded to the ECM (Step 6.5).
- 6.3.3 If the recommended resolution is not feasible, the NCR will be rejected and sent back to the ECI to revise the proposed resolution.
- 6.4** The Authority's Legal Counsel shall review the NCR addressing a Major Environmental Issue and the proposed resolution for legal sufficiency and may approve or reject the NCR at this stage.
- 6.4.1 If the recommended resolution is approved, the NCR shall be forwarded to the ECM.
- 6.4.2 If the recommended resolution is not legally sufficient, the NCR shall be returned to the ECI for revision.
- 6.5** The ECM shall review the NCR and proposed resolution to ensure that it complies with applicable Federal, state, and local regulations, laws, permits, commitments, and the Authority's environmental policies. The ECM may approve or reject the NCR.
- 6.5.1 If the NCR and proposed resolution is approved, the NCR shall be forwarded to the Construction Manager.
- 6.5.2 If the NCR and proposed resolution is rejected, the NCR shall be returned to the ECI for revision.
- 6.5.3 The Corridor Manager shall be copied at either approval or rejection.
- 6.6** The Construction Manager shall provide the NCR to the Construction Contractor.
- 6.7** The Construction Contractor may dispute the proposed resolution or implement the resolution to the environmental nonconformance.
- 6.7.1 If the proposed resolution is disputed, the NCR shall be returned to the ECI for reassessment. The ECI shall modify the NCR or reject the Construction Contractor's disputes.
- 6.7.2 If the proposed resolution is not disputed, the Construction Contractor shall implement the approved resolution.
- 6.7.3 Upon execution of the approved resolution, the Construction Contractor shall notify the Construction Manager of remedial activities.
- 6.8** The Construction Manager shall inspect the remedial activities to ensure they comply with the resolution presented in the NCR. The Construction Manager shall reject or approve the NCR for closure.
- 6.8.1 If the remedial activities are rejected, the NCR shall return to the Construction Contractor for proper implementation of the resolution. The ECI shall be copied if the remedial activities are rejected.
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6.8.2 If the remedial activities are approved, the Construction Manager shall recommend NCR closure and forward the NCR to the ECI for further action.

**6.9** The ECI may close the NCR or reject remedial activities.

6.9.1 If remedial activities return the nonconformance to compliance with applicable Federal, state, and local environmental laws, regulations, permits, commitments, and the Authority's environmental policies, the NCR shall be closed.

6.9.1.1 For Major Environmental Issues, the Corridor Manager, ECM, Construction Manager, and Authority's Legal Counsel shall be copied.

6.9.1.2 For Minor Environmental Issues, the Corridor Manager, ECM, and Construction Manager shall be copied.

6.9.2 If remedial activities fail to return the nonconformance to compliance with applicable laws, regulations, permits, commitments, or the Authority's environmental policies, the NCR shall be rejected to the Construction Manager for remedial activities by the Construction Contractor.

6.9.2.1 For Major Environmental Issues, the ECM and Authority's Legal Counsel shall be copied.

6.9.2.2 For Minor Environmental Issues, the ECM shall be copied.

**6.10** An NCR may result in the creation of Corrective or Preventive Actions to determine the root cause of the nonconformance to prevent future reoccurrence.

## **7.0 REGULATORY REQUIREMENTS:**

N/A

## **8.0 RELATED BOARD POLICY:**

8.1 NTTA Environmental Policy

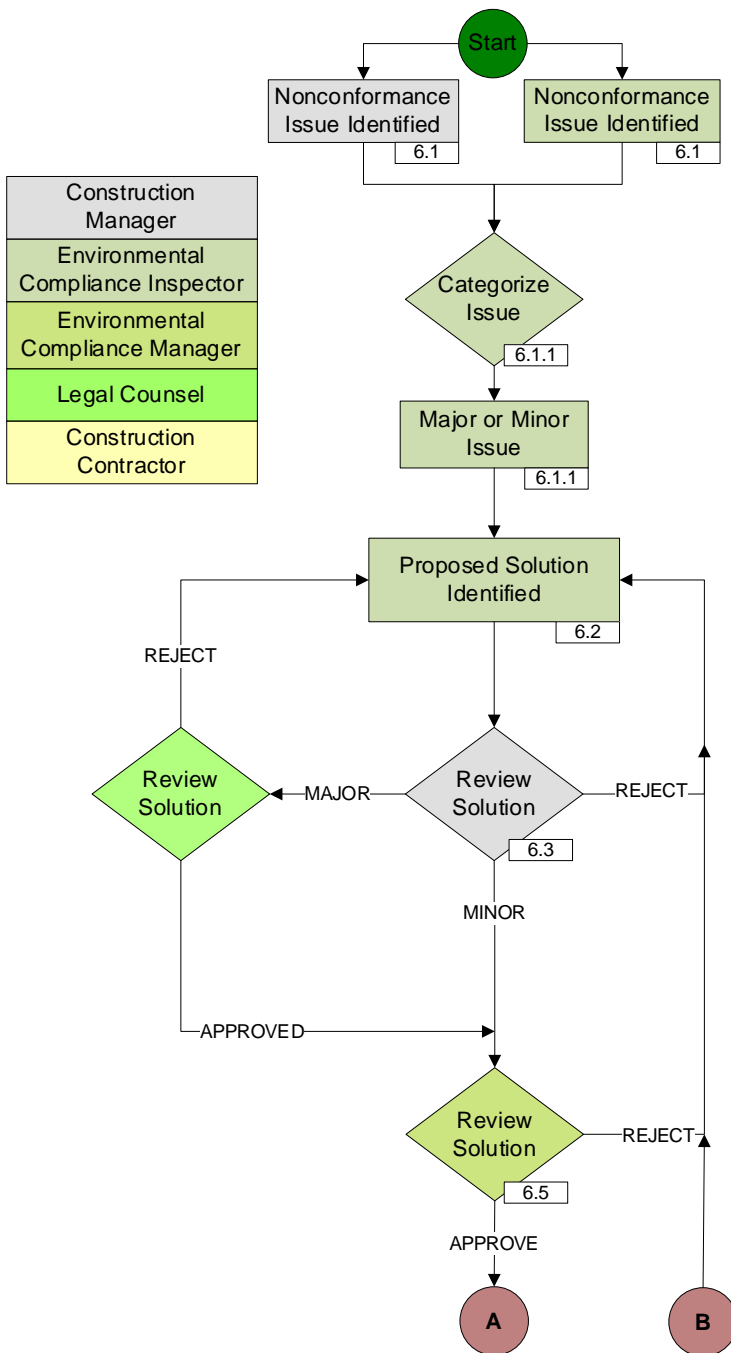
## **9.0 COMPONENT DOCUMENTS:**

9.1 [ENV-03-A1](#) ENV NCR Workflow Reference Card

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**10.0 FLOWCHART:**

**Control of Environmental Nonconformance**



**Construction Manager (CM) or Environmental Compliance Inspector (ECI):**  
- Identify a environmental nonconformance issue

**Environmental Compliance Inspector (ECI):**  
- Categorizes Environmental Issue  
\* Minor Environmental Issue  
\* Major Environmental Issue  
- All confirmed Minor and Major Environmental Issues shall be documented as an NCR in the EPDS system

**Environmental Compliance Inspector (ECI):**  
- ECI develops proposed resolution  
- Legal counsel shall be copied on Major Environmental NCR

**Construction Manager (CM):**  
- Reviews recommended resolution  
\* Approved Major Environmental NCR will be forwarded to Legal Counsel  
\* Approved Minor Environmental NCR will be forwarded to the ECM  
\* Rejected NCR will sent back to the ECI

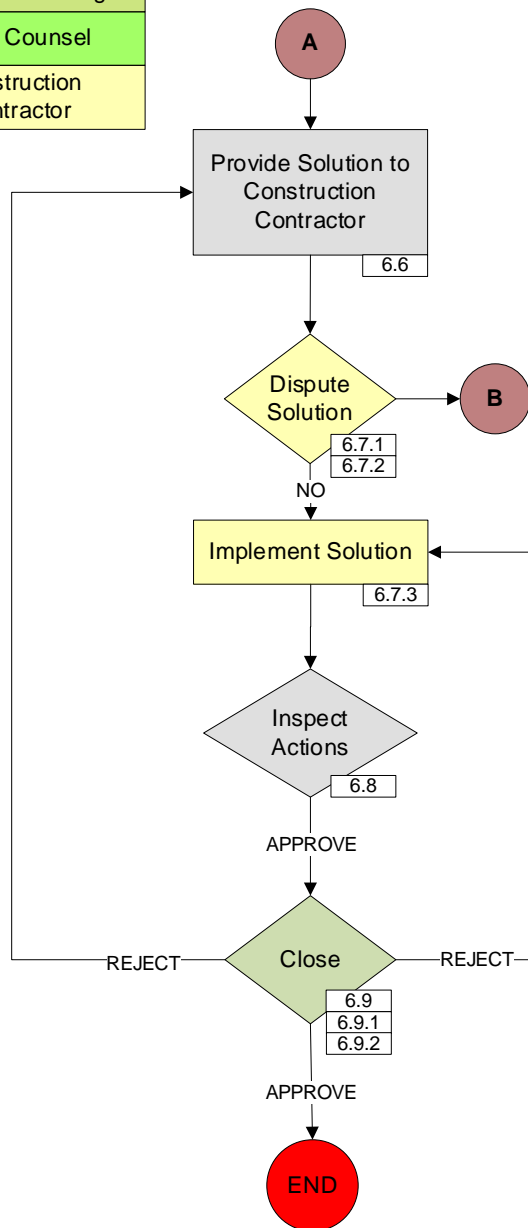
**Legal Counsel:**  
- Reviews recommended resolution  
\* Approved NCR resolution will be forwarded to ECM  
\* Rejected NCR resolution will be returned to ECI for revision

**Environmental Compliance Manager (ECM):**  
- ECM shall review the NCR resolution  
\* Approved NCR resolution will be forwarded to CM  
\* Rejected NCR resolution will be returned to ECI for revision  
- The Corridor Manager shall be copied at approval or rejection (if applicable)

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Construction Manager
Environmental Compliance Inspector
Environmental Compliance Manager
Legal Counsel
Construction Contractor

**Control of Environmental Nonconformance**



**Construction Manager:**

- Shall provide the NCR to the Construction Contractor

**Construction Contractor:**

- May dispute the proposed resolution or implement the resolution to the environmental nonconformance
- \* If the proposed resolution is disputed, the NCR shall be returned to the ECI for reassessment
- \* If the proposed resolution is not disputed, the Construction Contractor shall implement the approved resolution
- \* Upon execution of the approved resolution, the Construction Contractor shall notify the Construction Manager.

**Construction Manager:**

- Shall inspect the actions taken by the Construction Contractor and approve or reject as needed

**Environmental Compliance Inspector (ECI):**

- May close the NCR or reject remedial activities
- \* If remedial activities return the nonconformance to compliance with applicable Federal, state, and local environmental laws, regulations, permits, commitments, and the Authority's environmental policies, the NCR shall be closed.
- \* If remedial activities fail to return the nonconformance to compliance with applicable laws, regulations, permits, commitments, or the Authority's environmental policies, the NCR shall be rejected to the Construction Manager for remedial activities by the Construction Contractor

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**11.0 REVISION HISTORY:**

Revision	Revised by:	Date Released	DRN NO.	Reason for Revision
0	Eric Huff	8/10/2009	<a href="#">10017</a>	Original Release
1	Troy Federspiel	11/18/2009	<a href="#">10064</a>	New release of: ENV-03-A1 ENV NCR Workflow Reference Card Revision of ENV-03 Control of Environmental Nonconformance adding ENV-03-A1 attachment to the Section 9.0 Component Documents.
2	Julie Morse	10/10/2011	<a href="#">10352</a>	Changed PMO to PD in ENV-03 Control of Environmental Nonconformance and ENV-03-A1 Workflow Reference Card
3	Julie Morse	02/10/2020	<a href="#">10809</a>	Revised to omit references to archived MAN-14 (NTTA Environmental Manual).
4	Craig Hancock and Julie Morse	03/21/2023	<a href="#">10900</a>	Updated position titles and responsibilities.