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SUSTAINABILITY AND CONSENTS – UNDERTAKINGS & ASSURANCE

Managing Compliance with the Register of Undertakings and Assurances

Document Number: CR-XRL-Z1-GPR-CR001-00004

Current Document History:

Revision:	Effective Date:	Author(s) (‘Owner’ in eB *)	Reviewed by: (‘Checked by’ in eB *)	Approved by:	Reason for Issue:
9.0	08/06/2016	██████████		██████████	General update

Previous Document History:

Revision	Prepared Date:	Author:	Reviewed by:	Approved by:	Reason for Issue
1.0	02/04/07	██████████	██████████	██████████	First issue
2.0	05/02/09	██████████	██████████	██████████	Incorporating comments
3.0	06/10/09	██████████	██████████	██████████	Superseded procedure
4.0	21/01/10	██████████	██████████	██████████	Incorporating comments
5.0	12/07/10	██████████	██████████	██████████	Incorporating non-compliance process
6.0	09/09/11	██████████	██████████	██████████	Incorporating comments
7.0	16/03/12	██████████ ██████████	██████████	██████████	Incorporating comments
8.0	25/06/12	██████████	██████████	██████████	Incorporating comments

Revision Changes:

Revision	Status / Description of Changes
9.0	Document template has been updated with the new branding. New commitment status Historic information updated

Learning Legacy Document

Contents

1.	Purpose	4
2.	Scope.....	4
3.	Definitions.....	4
4.	Status of commitments.....	7
4.1	No longer required.....	7
4.2	On hold.....	7
4.3	Superseded	7
4.4	Pending CCT allocation.....	8
4.5	Commitment in progress	8
4.6	Awaiting sign-off.....	8
4.7	Discharged	8
4.8	Managed under other process.....	8
4.9	For reference only	8
5.	Responsibilities.....	8
5.1	Contractor	8
5.2	Commitments Compliance Officer	8
5.3	Community Relations Manager / Community Relations Officer	9
5.4	Commitment Accountable Manager	9
5.5	Action Owner	9
5.6	Legal team.....	10
5.7	Property Team.....	10
6.	Procedure.....	11
7.	Reporting	12
7.1	Report Production	12
8.	Reference Documents.....	12
9.	Standard Forms / Templates	12
10.	Appendices	12
10.1	Detailed procedure – flowchart.....	13

1. Purpose

The purpose of this procedure is to set out the process for identifying individual commitments contained in the Crossrail undertakings and assurances, assuring compliance with them, incorporating them into the Crossrail Project plans, handling and reporting potential non-compliance, and discharging them.

2. Scope

This procedure has been written for use by the following:

- All Crossrail directorates working directly on or providing support services to, the delivery of the central section works.
- The Land and Property Directorate for the on-network works.

3. Definitions

Borough wide commitment

Commitments that are given to a specific borough and that are applicable within the borough boundary.

Collaboration Agreement

A subset of undertakings that are individually listed in the Crossrail Register of Undertakings & Assurances. A Collaboration Agreement is an agreement entered into by the Secretary of State with a property developer under which the developer agrees to develop plans for an oversite development and is entitled to be granted a lease of airspace over a Crossrail station for that purpose.

Commitment

This is a general term that refers to specific individual promises that are contained in both undertakings and assurances (U&A).

Crossrail Commitments Delivery Tracker (CDT)

The Commitments Delivery Tracker is a workflow based database that enables users to record, track and edit commitments in a secure environment. It is available on the intranet through Crossrail's 'Workplace'. For more information, please contact the Commitments Compliance Team.

CDT contains:

- The full content of the Register of Undertakings and Assurances (including relevant sections of Collaboration Agreements); and
- Variations of existing U&As.

Commitment Incident

A non-compliance, or potential non-compliance with a commitment.

- **Level 1 Commitment Incident:** non-compliance with a commitment which has, or may have already happened, or has been alleged to have happened.
- **Level 2 Commitment Incident:** A non-compliance which may happen in the future if no action is taken (excluding variations).

Commitment variation

An agreed amendment to a commitment.

Compliance

Satisfaction of a commitment which is supported by recorded evidence.

Commitment Compliance Plan (CCP)

A management plan setting out the actions which will be taken to achieve compliance with all relevant commitments, a programme for them and the checks that will take place to ensure those measures are in place.

Crossrail Property Register (CPR)

IT platform shared by CDT. The Crossrail Property Register is an online database containing all the properties affected by Crossrail.

Discharged

Once the successful satisfaction of a commitment has been duly documented and authorised by the relevant accountable team, the commitment is finally closed and listed as “discharged”.

Location specific Commitment

A commitment which relates to a specific geographic location.

Master Operational Handover Schedule (MOHS)

The overarching schedule of activities for Crossrail.

Nominated Undertaker

An organisation appointed by the Secretary of State to exercise certain powers under the Crossrail Act 2008. To date, the Secretary of State has appointed two Nominated Undertakers: Crossrail Limited (in respect of the majority of the Crossrail works) and London Underground Limited (in respect of certain works at Tottenham Court Road and Bond Street stations). The relevant Nominated Undertaker is accountable for the discharge of commitments associated with the scope of its work. Crossrail is responsible for the overall custodianship of CDT as the single repository of the evidence of both Crossrail and LU for the discharge of commitments.

Potential Incident Report (PIR)

The PIR form (CR-XRL-Z1-ZFO-CR001-00002) is the formal record to be completed by the Commitment Accountable Manager (see section 5.4) when a non-compliance or potential non-compliance with a commitment has occurred or has been alleged to have occurred.

The PIR form includes fields for:

- incident's description,
- initial findings,
- assessment of potential non-compliance,
- corrective actions to mitigate any potential non-compliance,
- those responsible for carrying out any corrective or preventive actions,
- deadlines for completing corrective or preventive actions, and
- dates corrective or preventive actions are completed.

All the PIR forms and ongoing updates are recorded in the PIR tracker (CRL1-XRL-Z-LLG-CR001-50016) until the final completion of all the agreed corrective and preventive actions. The progress of closing PIRs is reported to the Commercial and Change Sub-Committee.

Programme wide Commitment

A commitment which applies across the whole of the Crossrail route.

Register of Undertakings and Assurances¹

A Register established during the passage of the Crossrail Bill with the purpose of capturing all the individual commitments given to petitioners and to Parliament in a single document, in order to ensure that any nominated undertaker, as well as the Secretary of State for Transport or any other organisation exercising the Crossrail Act's powers on their behalf, complies with them.

The Register forms part of the Crossrail Environmental Minimum Requirements (EMR).

The Register should be read in conjunction with the other documents that are also part of the EMR, namely the General Principles, Construction Code, Environmental Memorandum and the Planning and Heritage Memorandum. These documents are available on the Crossrail website: [click here](#)

The Register includes:

- formal signed undertakings between petitioners and the Secretary of State for Transport;
- assurances given in the Crossrail Bill House of Commons & House of Lords Select Committee proceedings, transcripts of which can be found on the Parliamentary website: [click here](#)
- assurances given to petitioners in letters from Crossrail London Rail Links Ltd (CLRL), the Department for Transport (DfT), or the DfT's Parliamentary Agents (Winckworth Sherwood); and
- assurances taken from the Crossrail Information Papers.

¹ To view the latest version of the Public Register of Undertakings and Assurances, please refer to the Crossrail website: <http://www.crossrail.co.uk/about-us/crossrail-act-2008/register-of-undertakings-and-assurances>

Undertakings and Assurances (U&As)

Undertakings are either legal agreements, enforceable through the courts, or obligations to Parliament. Assurances are in the form of statements in documents such as letters, emails, Promoter's Response Documents or Information Papers, which were given during the Bill process and have been placed in the Register of Undertakings and Assurances¹ and compliance with which the Secretary of State is answerable for to Parliament. Both undertakings and assurances are to be treated in the same way.

Sponsors

The DfT (on behalf of the Secretary of State) and TfL are jointly sponsoring Crossrail. They are ultimately accountable for the achievement of the anticipated benefits of the scheme. The two Sponsors have established a Joint Sponsor Team to ensure that the sponsorship role for the Crossrail project (as defined by the core project agreements) is fulfilled effectively.

4. Status of commitments

Nine descriptions of commitment status have been defined.

4.1 No longer required

This status is applied for a number of reasons including:

- When the scope of a work package changes and it is decided that a certain work will no longer be carried out, or has been modified in such a way that any commitments that are given effect by that work are technically no longer applicable or relevant then actions to discharge those commitments are no longer required.
- Due to a system artefact created when commitments were uploaded into the CDT, some duplicates have been created. Where a duplicated clause is identified it is also labelled as "no longer required" to provide clarity and ensure no duplicate work streams, or the creation of unnecessary work.
- Where an agreement is terminated the relevant commitments are labelled as no longer required.
- When a beneficiary has moved away and the commitment is not transferable to any subsequent third party.
- When buildings to which commitments specifically apply have been demolished by third parties.

4.2 On hold

Similar situation to the no longer required commitments, but in this case the commitments remain in place, as dormant, and if at any time there is a change and any works are decided upon that are of relevance to those commitments then they become active and action must be taken to comply with them.

4.3 Superseded

There are instances in where some undertakings and assurances listed in the Register of Undertakings & Assurances were superseded, replaced, by subsequent negotiations with the beneficiary resulting in new undertakings or variations. In such instances the initial undertaking or assurance is listed as superseded.

4.4 Pending CCT allocation

Once a new commitment is registered, during the identification process, it will be listed as “pending CCT allocation” as the team will have to break it down into accountabilities, agree the allocation with the relevant responsible/accountable team, and inform all the involved parties.

4.5 Commitment in progress

Once the allocation of accountabilities has been completed, the commitment is automatically listed as “in progress” which means that it is actively being managed until its final discharge.

4.6 Awaiting sign-off

Three undertakings in the Register of Undertakings and Assurances are still in draft and have never been signed. Nevertheless, the relevant commitments in these draft undertakings have been and continue to be incorporated into work procedures and contracts and are thereby taken into account as if they were duly signed.

(Please refer to the latest version of the Register of Undertakings and Assurances or CDT to see a list of these draft undertakings).

4.7 Discharged

Once a commitment has been satisfied and compliance evidence duly documented and authorised by the relevant accountable team the commitment is finally closed and listed as “discharged”.

4.8 Managed under other process

These items are not commitments and managed under different process, third party agreements entered into after the Crossrail Act 2008 came into effect.

4.9 For reference only

These are clarification clauses within the U&A; often definitions or process description.

5. Responsibilities

5.1 Contractor

- Comply with the U&A requirements in the Crossrail Works Information (in particular Volumes 2B and 2A) and any subsequent Project Manager’s Instructions.

5.2 Commitments Compliance Officer

The Commitments Compliance Officer (CCO) manages the process for monitoring compliance with commitments and is responsible for:

- Ensuring CDT is up-to-date.
- Communicating and liaising with community relations personnel.
- Providing training to CDT users.
- Managing the CDT change control process.
- Assisting in the identification of relevant commitments in any Invitations To Tender and drafting relevant Works Information.
- Monitoring, measuring and reporting on compliance.
- Communicating changes to all relevant technical teams.

5.3 Community Relations Manager / Community Relations Officer

The Community Relations Manager (CRM/CRO) is responsible for:

- Coordinating acceptance and subsequent satisfaction of the Commitments Compliance Plan (CCP).
- Arranging with the Project Field Engineer (PFE) any suggested changes to the Works Information requiring a Project Manager's Instruction.
- Cooperating in the coordination of CDT change control process and communicating changes to the relevant site teams.
- Improving and maintaining relationships between Crossrail and the beneficiaries of undertakings and assurances and any other stakeholders that may be affected by the works.
- Working with contractors in reacting to commitments incidents, complaints and general enquiries.
- Assisting the Action Owner (AO) in ensuring compliance with undertakings and assurances by sampling evidence uploaded into CDT by the contractor on a periodic basis.

5.4 Commitment Accountable Manager

This is a role rather than a job title. The Commitment Accountable Manager (CAM) is accountable for:

- Where circumstances require it, and in accordance with any delegated powers, negotiating agreement with beneficiaries to alternative mitigation or delivery of a commitment (commitment variations).
- Overseeing investigations on potential non-compliances.
- Agreeing the final discharge of U&As.

CAMs are frequently, although not always, directors within the Crossrail organisation.

5.5 Action Owner

This is a role rather than a job title, although where the responsibility for complying with undertakings & assurances has been passed to contractors the AO is the Project Manager. The AO is responsible for:

- Checking the list of commitments to be included in invitations to tender against the scope and drafting/approving the commitments assigned to contractors through the Works Information.
- Overseeing compliance with the commitments that are applicable to their respective projects and/or contracts.
- Providing direction for any actions required by Framework Design Consultants or Construction Contractors to ensure and demonstrate compliance.
- Monitoring that the CDT is correctly updated with Commitment Compliance Plans and compliance evidence.
- Reviewing and accepting contractors' Commitment Compliance Plans (CCP) and referring specific matters to the Technical and/or Legal Directorates for advice when needed.
- Reviewing the contractor's reporting to ensure that the contractors are meeting the CCP.
- Overseeing specific time-related commitments compliance actions supported by the relevant CRM/ CRO and seeking Technical/Legal advice when required.

5.6 Legal team

The Crossrail legal team is responsible for:

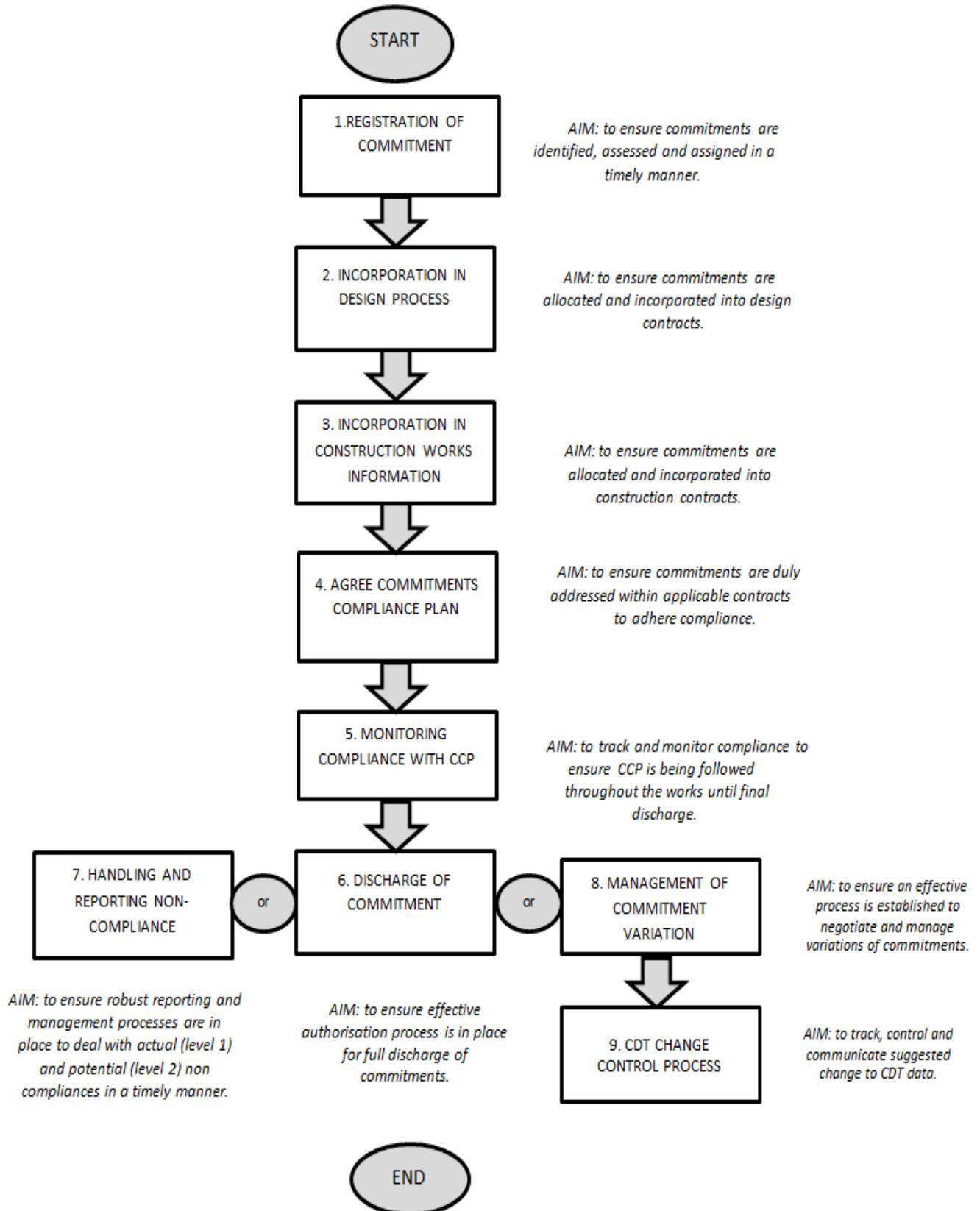
- Advising on non-compliances.
- Reviewing PIR forms.
- Reviewing the U&As section of the Works Information.
- Advising on compliance issues and final discharge of commitments.
- Assisting in drafting and negotiating variations of commitments.

5.7 Property Team

The Property Team is both accountable and responsible for the Crossrail managed property-related commitments.

- The Property Acquisition Manager, assuming a CAM role, is responsible for signing off compliance evidence.
- The Property Project Manager, assuming a supporting role, is responsible for approving compliance action plans.
- The Property Acquisition Officer, supported by the relevant Property Acquisition Coordinator, is responsible for:
 - selecting the relevant commitments for each work area;
 - drafting the compliance plans against each commitment;
 - arranging sign off of commitment list (by the Legal Directorate internal and external advisors, Community Relations Managers and Officers for approval of acquisition;
 - arranging relevant sign off for full discharge of commitments;
 - ensuring that all the relevant commitments are correctly captured in the Acquisition process; and
 - entering both compliance plans and compliance evidence into CDT once duly approved.

6. Procedure



7. Reporting

7.1 Report Production

CDT is used to identify the responsible manager for each commitment, date for its discharge (where known), and its current status. It can be interrogated so that each commitment can be classified by a range of fields, e.g. type, category, beneficiary (i.e. recipient of the commitment), project teams, etc.

The CDT is available to all parties to monitor, control and report the discharge of commitments. Crossrail has provided access to its Industry Partners and the JST so that the management is transparent irrespective of which party is undertaking the delivery of works. Standard reports are available from CDT.

Commitment compliance performance is reported periodically in the Technical Director's Report and quarterly to the Commercial & Change Sub-committee.

8. Reference Documents

Ref:	Document Title	Document Number:
1.	PIR Tracker	CRL1-XRL-Z-LLG-CR001-50016
2.		
3.		
4.		

9. Standard Forms / Templates

Ref:	Document Title	Document Number:
A.	Undertakings and Assurances Potential Incident Report	CR-XRL-Z1-ZFO-CR001-00002
B.		

10. Appendices

**Managing Compliance with the
Register of Undertaking and Assurances
CR-XRL-Z1-GPR-CR001-00004 Rev 9.0**

Start/End  Meeting  Flow Line  Mtg Attendee  Activity  Communicate  Link / Input / Output  Decision / Option  Y N		CCO	ACRM/CRO	CRL LEGAL - PROJECT SOLICITOR	AO	CAM	DESIGNERS	CONTRACTORS	JST/INTERFACE MANAGER	TECHNICAL DIRECTOR	LEGAL SERVICES DIRECTOR	PROGRAMME DIRECTOR	BENEFICIARIES	Link in/out	Inputs / Outputs References
7.00	HANDLING AND REPORTING NON-COMPLIANCE - LEVEL 1														
7.01	IDENTIFY INCIDENT - (AO = PM)														
7.02	NOTIFY INCIDENT - (AO = PM)														
7.03	NOTIFY CROSSRAIL DIRECTORS AND JST														
7.04	COMPLETE PIR <u>WITHIN 2 WORKING DAYS</u> AND CIRCULATE (AO = PM)														 PIR FORM AVAILABLE IN CMS AND IN APPENDIX
7.05	LEGAL DECISION: ARE PIR CORRECTIVE ACTIONS ACCURATELY CAPTURED?														
7.06	PIR TO BE RECIRCULATED														
7.07	DOCUMENT FOLLOW-UP ACTIONS (AO = PM). ALL AGREED CORRECTIVE ACTIONS ARE ESCALATED TO THE CRL CONFLICTS AND COMPLIANCE SUB-COMMITTEE UNTIL THEIR FINAL COMPLETION														
7.08	RETAIN COPY OF PIR														
7.09	INCLUDE SUMMARY OF PIRS IN BUSINESS REPORTS														
7.10	COMMUNICATE PIR TO PREVENT REOCCURENCE (AO = PM)														
7.11	END														
8.00	HANDLING AND REPORTING NON-COMPLIANCE - LEVEL 2														
8.01	IDENTIFY INCIDENT - (AO = PM)														
8.02	NOTIFY INCIDENT - (AO = PM)														
8.03	COMPLETE PIR <u>WITHIN 10 WORKING DAYS</u> (AO = PM)														 PIR FORM AVAILABLE IN CMS AND IN APPENDIX
8.04	LEGAL DECISION: ARE PIR CORRECTIVE ACTIONS ACCURATELY CAPTURED?														
8.05	PIR TO BE RECIRCULATED and NOTIFY CROSSRAIL DIRECTORS AND JST														
8.06	DOCUMENT FOLLOW-UP ACTIONS (AO = PM). ALL AGREED CORRECTIVE ACTIONS ARE ESCALATED TO THE CRL CONFLICTS AND COMPLIANCE SUB-COMMITTEE UNTIL THEIR FINAL COMPLETION														
8.07	RETAIN COPY OF PIR														
8.08	INCLUDE SUMMARY OF PIRS IN BUSINESS REPORTS														
8.90	COMMUNICATE PIR TO PREVENT REOCCURENCE (AO = PM)														
8.10	END														

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CR-XRL-Z1-GPR-CR001-00004 Rev 9.0**

