

(SP-98-095, November 1998, Program, Procedure SA-105)
DATED: NOVEMBER 30, 1998

SIGNED BY: PAUL H. LOHAUS

ALL AGREEMENT STATES
MINNESOTA, OHIO, OKLAHOMA, PENNSYLVANIA, AND WISCONSIN

TRANSMITTAL OF STATE AGREEMENTS PROGRAM INFORMATION (SP-98-095)

Your attention is invited to the enclosed correspondence which contains:

INCIDENT AND EVENT INFORMATION.....

PROGRAM MANAGEMENT INFORMATION...XX **DRAFT OSP PROCEDURE SA-105,
"REVIEWING COMMON
PERFORMANCE INDICATOR #5,
RESPONSE TO INCIDENTS AND
ALLEGATIONS"**

TRAINING COURSE INFORMATION.....

TECHNICAL INFORMATION.....

OTHER INFORMATION.....

Supplementary information: Enclosed for your review and comment is the draft OSP Procedure SA-105, "Reviewing Common Performance Indicator #5, Response to Incidents and Allegations." The document has been drafted to incorporate procedures and guidance for the review conducted under the Integrated Materials Performance Evaluation Program. We would appreciate receiving your comments within one month of receipt of this document.

This information request has been approved by OMB 3150-0029, expiration 04/30/01. The estimated burden per response to comply with this voluntary collection request is 6 hour(s). Forward any comments regarding the burden estimate to the Information and Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0029), Office of Management and Budget, Washington, DC 20503. If a document does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information.

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Enclosure:
As stated



OSP Procedure Approval

Reviewing Common Performance Indicator #5 Response to Incidents and Allegations - SA-105

Issue Date:

Expiration Date:

Richard L. Bangart
Director, OSP

Date:

Paul H. Lohaus
Deputy Director, OSP

Date:

Lance J. Rakovan
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Date:

NOTE

The OSP Director's Secretary is responsible for the maintenance of this master copy document as part of the OSP Procedure Manual. Any changes to the procedure will be the responsibility of the OSP Procedure Contact. Copies of OSP procedures will be distributed for information.



Procedure Title: *Reviewing Common Performance Indicator #5, Response to Incidents and Allegations*
Procedure Number: SA-105

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Issue Date:

I. INTRODUCTION

- A. This document describes the procedures for conducting reviews of NRC Regional offices and Agreement States using Common Performance Indicator #5, Response to Incidents and Allegations [NRC Management Directive 5.6, *Integrated Material Performance Evaluation Program* (IMPEP), November 25, 1997].
- B. As used in this procedure, the term "incident" applies to an event that may have caused, or threatens to cause, conditions described in 10 CFR 20.2202 through 20.2204, 10 CFR 30.50, 10 CFR 34.24, CFR 34.30, 10 CFR 35.33, 10 CFR 36.83, 10 CFR 39.77, 10 CFR 40.60, 10 CFR 70.50, or the equivalent State regulations. If a State defines this term in a different fashion, this should be noted during the course of the review.
- C. As used in this procedure, the term "allegation" means a declaration, statement, or assertion of impropriety or inadequacy associated with regulated activities, the validity of which has not been established. This term includes all concerns identified by sources such as the media, individuals or organizations. Excluded from this definition are matters being handled by more formal processes such as 10 CFR 2.206 petitions, hearing boards, and appeal boards, for example. If a State defines this term in a different fashion, this should be noted during the course of the review.

II. OBJECTIVES

- A. To assure that actions taken in response to incidents or allegations are appropriate, well coordinated, and timely.
- B. To verify that Regions and Agreement States have in place appropriate incident and allegation response procedures.
- C. To confirm that corrective actions in response to incidents and allegations are adequately identified by licensees and that appropriate follow-up measures are taken to ensure compliance.

D. For incidents:

1. To assure that the level of effort in responding to an incident is commensurate with potential health and safety significance.
2. To confirm that follow-up inspections are scheduled and completed, if necessary.
3. For Regional reviews, to confirm that notification to the Office of Nuclear Material Safety and Safeguards (NMSS), the Office of Analysis and Evaluation of Operational Data (AEOD), as appropriate, is usually performed in a timely fashion.
4. For Agreement State reviews, to confirm that notification to the NRC, as appropriate, is usually performed in accordance with the Nuclear Materials Events Database (NMED) Handbook (OSP Procedure SA-300, *Reporting Material Events*, February 25, 1998).
5. To verify that the information provided by the Agreement States on incidents and events for NMED is complete and accurate.

- E. In addition to the general sampling of allegations, to verify that Agreement States are properly handling all allegations referred to the State from the NRC (e.g., that safety issues are properly addressed, length of time to close an allegation is appropriate, feedback is provided to allegers, etc.).

III. BACKGROUND

- A. This procedure applies to all incident response and allegation activities centered primarily in the period of time since the last Regional or State review. Incidents and allegations that began in periods prior to the review cycle should be included, but only if significant activity continued into the current review period.
- B. This procedure specifically excludes non-Atomic Energy Act licensees, and incident response, or allegation follow-up actions conducted by or referred to NRC Headquarters personnel for decision.

IV. ROLES AND RESPONSIBILITIES

- A. The team leader for the Regional or State review will determine which team member(s) is assigned lead review responsibility for this performance indicator. In order to limit knowledge of allegeders' identities, only NRC staff will review NRC Regional Office allegations.
- B. The principal reviewer is responsible for reviewing relevant documentation, conducting staff discussions, and maintaining a reference log of all licensing or inspection files reviewed and Regional or State personnel interviewed.

V. GUIDANCE

A. Review Scope

The principal reviewer will determine the scope of the review based on preliminary discussions with NMSS/OSP/Regional/State allegation coordinators and inspection or compliance program managers (as appropriate). At a minimum, the reference log of all licensing inspection or allegation files reviewed and Regional or State personnel interviewed will include:

1. licensee name
2. licensee address
3. a numerical file reference (such as license number, or inspection report number)
4. inspection priority of the license
5. the lead inspector (if any)
6. type of inspection (i.e., reactive, closeouts, announced, unannounced, team, other, etc.)
7. date of inspection
8. date issued
9. type of license operation (i.e., program code or license category).

The logs should be prepared in a sanitized fashion, if necessary, in order not to compromise the confidentiality of allegeders, or others. (Note: The logs for the allegation reviews will not be part of the IMPEP review report).

B. Evaluation Procedures

The principal reviewer should refer to Part III, Evaluation Criteria of Management Directive 5.6, for specific evaluation criteria. The Directive's Glossary defines the terms "Incidents" and "Allegations."

The reviewer should examine a representative number (approximately 10 each) of significant materials program incident response and allegation activities conducted by Regions or Agreement States. For Agreement States, priority should be given to evaluating in detail all allegations referred to the State from the NRC within the constraints of Section III. A. and B., above.

For Agreement States, the reviewer will need to consult with the State as to the existence of confidentiality agreements (or other similar mechanisms) in place that may limit the review of specific files. The State may have to remove certain information from documents to protect the identity of allegeders.

For Regions, the latest audit conducted by NRC's Agency Allegation Advisor (AAA) should be obtained in preparation for the review. Normally, the annual AAA review will be conducted at the same time as the IMPEP review for a particular Region. In order to increase flexibility and efficiency, the principal reviewer may, in appropriate cases, adopt a portion of the AAA audit to augment the IMPEP report for the Regions.

C. Review Guidelines

The responses generated by the Regions or States to relevant questions in the Integrated Materials Performance Evaluation Program (IMPEP) questionnaire should be used to focus the review. For Regional reviews, the Operations Branch in the NMSS Division of Industrial and Medical Nuclear Safety should be contacted for lists of incidents or allegations to be included in the review. NRC's Office of Enforcement and AEOD are also potential sources for this information.

A detailed printout of all State NMED data for the review period should be obtained.

For the States, the principal reviewer should work with the Regional State Agreements Officer in obtaining the listing of allegations transferred from the NRC to the Agreement State for response in selecting the appropriate files for review.

Any incidents or allegations identified for follow up from the last periodic meeting should be reviewed.

D. Review Details

The review of each file should be made in conjunction with the reference and resource materials specified in Paragraph E., below.

For incident response, the principal reviewer should evaluate the following:

1. Promptness of inquiries made to evaluate the need for on-site inspections.
2. Promptness of on-site inspections of incidents requiring reporting to the Agency in less than 30 days.
3. Appropriate follow up of incidents during the next scheduled inspection, including ensuring the adequacy, accuracy, and completeness of licensee-provided information.
4. Inclusion of in-depth reviews of incidents during inspections on a high-priority basis, as warranted. When appropriate, follow-up activities should include re-enactments and time-study measurements (normally within a few days). Inspection results should be documented and enforcement action taken in accordance with NRC or State policy and procedures.
5. Pertinent information about incidents which could be relevant to other licensed operations (e.g., equipment failure, improper operating procedures) is provided to licensees, the NRC (for Agreement States), and/or Agreement States (for NRC Regions or Agreement States, as appropriate).
6. Information on incidents involving equipment failure is provided to the agency responsible for evaluation of the device for an assessment of possible generic design deficiency.
7. Determination that the number and type of event reports recorded in NMED and the number and type of event reports on record at an NRC Region or Agreement State are identical.

8. Information obtained during the Region's or State's review is compared with other information obtained from the licensee to identify and resolve any differences.
9. The public is provided access to NRC/State and licensee records on the review as permitted within the constraints of laws for protection of personal, private, and proprietary information.

For allegations, the reviewer should evaluate the following:

1. Priority given to allegations with potential safety significance.
2. Receipt of an allegation is acknowledged to the alleger.
3. The allegation is discussed with the alleger, if known, to obtain additional information.
4. In accordance with State rules and policy, allegers' identities are successfully protected.
5. Adequate evaluation/inspection of the allegation to assess its validity and whether licensee health and safety issues are present.
6. Appropriate regulatory action taken.
7. Notification to allegers that the allegation is closed, and that allegers are informed of the progress of allegations every six months for unresolved allegations.
8. Appropriate length of time to close allegations.
9. For allegations referred to an Agreement State from the NRC, that the State's procedures for handling allegations compare to guidance in Management Directive 8.8, documenting any significant differences and determining if the State's procedures are equally as effective as NRC's.
10. For Agreement State reviews, whether the program for processing allegations encourages those with safety concerns to express those concerns to the Agreement State program.

In addition to other items mentioned above, the reviewer should determine that:

1. Appropriate regulatory action was taken for items of noncompliance.
2. Letters to licensees are written in appropriate regulatory language, and they specify the time period for licensee response indicating corrective actions and actions taken to prevent recurrence.
3. The licensee's response was reviewed for adequacy and/or what subsequent action was taken by compliance supervision.

E. Reference and Resource Materials.

The reviewer should be familiar with, or have available, copies of NRC Management Directive 8.8, *Management of Allegations*, and the Region's or State's inspector field notes, report forms for inspections and investigations, and appropriate NRC/State regulations. In particular, the reviewer should be familiar with the contents of OSP Procedure SA-300, *Reporting Material Events*, and related NRC Inspection Manual Chapter 1246. A printout of the NMED data should be obtained for each Region and State.

F. Discussion of Findings with Region or State.

The reviewer should follow the guidance given in OSP Procedure SA-100, *Integrated Material Performance Evaluation Program*, for discussing technical findings with reviewers, supervisors, and management.

VI. APPENDICES

Attachment A - IMPEP Incident Reviewer Guidance
Attachment B - IMPEP Allegation Reviewer Guidance

VII. REFERENCES

1. NRC Management Directive 5.6, *Integrated Material Performance Evaluation Program*, November 25, 1997.
2. OSP Procedure SA-100, *Integrated Material Performance Evaluation Program*, undated.
3. OSP Procedure SA-300, *Reporting Material Events*, February 25, 1998.

Appendix A

IMPEP INCIDENT REVIEWER GUIDANCE

NRC REVIEW BY: _____ DATE: _____ A/S OR REGION: _____

STATE INCIDENT LOG NUMBER OR OTHER FILE IDENTIFICATION: _____

LICENSEE: _____ LICENSE # _____

LOCATION OR SITE OF EVENT: _____

DATE OF 1ST CONTACT: _____ DATE OF INCIDENT: _____

DATE OF INVESTIGATION: _____ INVESTIGATION TYPE: SITE PHONE NEXT INSP NONE

OVEREXPOSURE DAMAGE TO EQUIPMENT OR FACILITY
 RELEASE OF RAM EQUIPMENT OR PROCEDURE FAILURE
 LOST/STOLEN/ABANDONED RAM LEAKING SOURCE
 CONTAMINATION EVENT TRANSPORTATION
 LOSS OF CONTROL MISADMINISTRATION
 OTHER: _____

BRIEF SUMMARY OF INCIDENT _____

EVENT MET AOR REPORTING REQUIREMENTS? Y N POSSIBLE GENERIC PROBLEM? Y N

STATE'S ACTION: _____

FINAL DISPOSITION: _____

NO.	COMMENTS FOR REPORT APPENDIX

INVESTIGATOR _____

SUPERVISORY REVIEW BY: _____ DATE: _____

FINDINGS DISCUSSED WITH _____ ON: _____

Appendix B

IMPEP ALLEGATION REVIEWER GUIDANCE

NRC REVIEW BY: _____ DATE: _____ A/S OR REGION: _____

STATE INCIDENT LOG NUMBER OR OTHER FILE IDENTIFICATION: _____
LICENSEE: _____ LICENSE # _____
LOCATION: _____
DATE OF 1ST CONTACT: _____ DATE OF ALLEGED EVENT: _____
DATE OF INVESTIGATION: _____ INVESTIGATION TYPE: SITE <input type="checkbox"/> PHONE <input type="checkbox"/> NEXT INSP <input type="checkbox"/> NONE <input type="checkbox"/>
ALLEGATION PERTAINING TO POSSIBLE:
<input type="checkbox"/> UNREPORTED OVEREXPOSURE <input type="checkbox"/> FAULTY EQUIPMENT
<input type="checkbox"/> UNREPORTED RELEASE OF RAM <input type="checkbox"/> FALSE STATEMENTS OR RECORDS
<input type="checkbox"/> UNQUALIFIED USERS OR INADEQUATE TRAINING <input type="checkbox"/> DELIBERATE VIOLATION
<input type="checkbox"/> INADEQUATE PROCEDURES OR POSTINGS <input type="checkbox"/> DISCRIMINATION
<input type="checkbox"/> OTHER: _____

BRIEF SUMMARY OF ALLEGATION _____

RULE OR LICENSE CONDITION ALLEGEDLY VIOLATED: _____

STATE'S ACTION: _____

FINAL DISPOSITION: _____

NO.	COMMENTS FOR REPORT

INVESTIGATOR _____

SUPERVISORY REVIEW BY: _____ DATE: _____

FINDINGS DISCUSSED WITH _____ ON: _____

Appendix B (Continued)

ITEM	O.K.	COMMENTS	
INITIAL RESPONSE			
ALLEGATION HANDLED PROFESSIONALLY			
PROMPTNESS (PRIORITY GIVEN TO SERIOUS ALLEGATIONS)			
APPROPRIATE TYPE OF RESPONSE (ON-SITE, TELCON, NEXT INSPECTION, ETC.)			
DOCUMENTATION OF ALLEGATION			
DETAILS OF ALLEGATION (WHAT, WHERE, WHEN, WHO?)			
CONFIDENTIALITY OF ALLEGER PRESERVED			
INVESTIGATION			
DEPTH OF INVESTIGATION			
DOCUMENTATION OF INVESTIGATION REPORTS, TELCON DOCUMENTATION, ETC)			
DESCRIPTION OF EVIDENCE EXAMINED			
REGULATORY ACTIONS (CITATIONS, LICENSE RESTRICTIONS, CORRECTIVE REQUIREMENTS)			
SUPERVISORY OVERSIGHT OF INVESTIGATION			
FOLLOW THROUGH AND CLOSE OUT			
ALLEGER PROVIDED WITH RESULTS OF INVESTIGATION			
INVESTIGATION ENTERED AND CLOSED OUT IN STATE'S TRACKING SYSTEM			
LICENSEE'S REPORTS AND CORRECTIVE ACTIONS REVIEWED AND/OR VERIFIED			
CLOSE-OUT DOCUMENTATION COMPLETE WITH DATE AND SIGNATURE			
SUBSTANTIATED ALLEGATION REVIEWED AT NEXT INSPECTION			
ALLEGATION OR INCIDENT REPORT CROSS REFERENCED TO LICENSE/COMPLIANCE FILE			
MEDIA HANDLING			
INCIDENT REPORTING REQUIREMENTS MET			
OTHER:			
QUESTIONS FOR INVESTIGATOR OR SUPERVISOR:			