

INSPECTION ADMINISTRATIVE PROCEDURE

A-110

INSPECTIONS TO REVIEW SAFETY CONCERNS

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Revision 3

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INSPECTION ADMINISTRATIVE PROCEDURE A-110, REV. 3 INSPECTIONS TO REVIEW EMPLOYEE SAFETY CONCERNS

1.0 PURPOSE

This inspection procedure provides guidance to ensure inspections of employee safety concerns (ESCs) received by the WTP Safety Regulation Division (OSR) are performed in a consistent manner that address concerns raised by individuals, while safeguarding the identity of the individual to the maximum extent possible.

2.0 GENERAL REQUIREMENTS

- 2.1 Before conducting an ESC related inspection, the ESC must be reviewed by the OSR Verification and Confirmation Official (VCO) and a decision made to review the issue(s) raised in the concern by inspection rather than by another option. The decision to devote a special inspection to the concern or to review the issue(s) during a routine inspection will be made by the Safety Regulation Official (SRO).
- 2.2 Inspections to review and resolve ESCs should be conducted in a manner similar to that used for any other inspection. However, the inspector shall not inform the Contractor the inspection is being conducted to review an ESC unless instructed to do so by the VCO. The inspection should not focus on the issue(s) raised in the employee safety concern, but should include the general area of the Contractor's program related to the ESC.
- 2.3 Matters of confidentiality are settled before the inspection. The inspector should understand the concerned individual's confidentiality status and the concerned individual's feelings regarding the possibility of revealing his/her identity. The inspector shall be aware of and follow the procedures used to safeguard employee concern documents, to communicate with the concerned individual and the Contractor, and to address other matters discussed in RL/REG-97-05, *Office of Safety Regulation Management Directives*, Management Directive (MD) 1.8, "Employee Concern Investigation," and the associated Handbook 1.8. On rare occasion, because of the urgency of the safety concern(s), the SRO, after consulting with the Richland Operations Office (RL)-Office of Special Concerns (OSC), may decide to initiate an inspection before confidentiality issues are resolved fully.

3.0 INSPECTION GUIDANCE

3.1 GENERAL GUIDANCE

Definitions and other guidance involving specific aspects of employee concern management used in this procedure are identical to those in MD 1.8, "Employee Concern Investigation." The reader is referred to this document for additional guidance on the non-inspection-related aspects of employee safety concerns.

Concerned individuals are granted confidentiality by RL only in non-routine cases where it is deemed necessary for resolving the employee concern. The OSR inspector should establish if confidentiality had been granted before proceeding with the inspection. Nevertheless, the identity of the concerned individual should be protected as much as possible, even when confidentiality is not granted. Any information related to the employee concern should be provided to other persons, within or outside the OSR, only on a need-to-know basis. Files should be secured when not in use, and any documents released for general use should have identifying information redacted. Exceptions to the above are those cases in which it is documented the concerned individual has no objection to making his/her identity known, and releasing the concerned individual's identity would significantly facilitate review and resolution of the employee concern.

To help maintain anonymity, the inspector should avoid taking any documents to the field containing information that may reveal the nature of the inspection or the identity of the concerned individual, unless considered important to the conduct of the inspection. In addition, care should be taken to ensure documents about the employee concern are protected from inadvertent disclosure. When not in the presence of an inspector, documents must be kept in a secure file cabinet or safe and access to such documents granted only on a need-to-know basis, as determined by the VCO. Such documents may not be reproduced without the VCO's approval, and any copies of the document will be controlled in the same manner as the originals. To further ensure anonymity, employee concerns are tracked within the OSR by an employee concern number, provided by RL-OSC, and not by the concerned individual's name or any other identifier that may indicate the concerned individual's identity.

Inspections to review employee concerns may include special inspections conducted outside the routine inspection cycle, as well as routine inspections. An unusual focus on a particular area of a Contractor's operation has the potential to alert the Contractor that the inspection is being conducted as a result of information not known to the Contractor, and an employee concern may be suspected. Should the Contractor inquire whether the inspection is being conducted in response to an employee concern, the inspector should inform the Contractor the inspection includes a review of concerns the OSR has with regard to the Contractor's facility or operations. The inspector should decline to comment further on the origin of the concerns. The inspector also should remember "off-the-record" communications with Contractor personnel are prohibited. Any information provided, including information considered by the Contractor, concerned individual, or other personnel to be "off-the-record," may be used by the OSR in resolving the employee concern or for any other purpose.

The inspector should refer to MD Handbook 1.8 for a more detailed discussion of the issue of confidentiality.

3.2 SPECIFIC GUIDANCE

3.2.1 Pre-inspection Activities

The inspector should review and understand all information related to the employee concern. Parts that are not clear should be discussed with the VCO. The inspector should review related information in the OSR Contractor files that may be relevant to the employee concern, as well as review the authorization basis and Contractor commitments for relevant conditions.

During discussions with the Contractor and with other OSR personnel not directly involved in the case, the inspector must maintain confidentiality. If the inspector concludes wrongdoing may be involved, the matter should be discussed with the VCO.

The VCO, in consultation with the inspector, normally decides if direct discussions with the concerned individual are needed. The inspector, in cooperation with the VCO, should decide whether discussions with the concerned individual should be conducted by telephone or whether a face-to-face meeting is desirable. If the latter option is the preferred method a special offsite meeting should be arranged at a location where the inspector is not likely to be recognized as an OSR representative. A private or rental car should be used during such meetings rather than an official government car. All correspondence with the concerned individual should be sent by, or coordinated with, the RL-OSC by the VCO. In the event the OSR and RL-OSC agree the OSR should correspond with the individual, OSR will only do so after receipt of written agreement from RL-OSC. Any correspondence sent to the concerned individual by OSR should be in unmarked envelopes (envelopes used to transmit information should not have any markings or be of a design that may result in the identification of the concerned individual as the one who provided an allegation).

3.2.2 Inspection Activities

Inspections to review and resolve employee safety concerns should be conducted in a manner similar to that used for any other inspection. The inspection should focus on the specific area of the concern, but not too closely, to avoid the appearance that the inspector is looking for a specific problem in a specific area of the Contractor's operation. When reviewing documents and records, the inspector should be alert to any signs that the records have been tampered with or do not reflect actual conditions. The most obvious item to look for is any sign of erasures on records. In general, erasures are not made on official records. Errors are usually corrected by drawing a line through the erroneous entry without making the entry illegible, adding the correct entry, and initialing and dating. Signs of deviation from this procedure should be viewed with suspicion and at least considered a serious weakness in the Contractor's program.

The inspector should interview a large number of personnel who may be associated with the area addressed in the concern. Interviews should be conducted with one Contractor representative at a time, if possible. Pointed, direct questions that would put the person on the alert should not be

asked. The inspector should look for consistency among the various descriptions of the program and Contractor activities provided by the interviewed personnel. Any inconsistencies should be investigated, but such investigations must be done indirectly to ensure actions will not be taken to obscure the sources of such inconsistencies or the staff will not become wary and stop volunteering information. The inspector should be alert to any indications of a chilling effect or a reluctance of employees to report or discuss concerns regarding safety issues. Such an effect may be indicated by unexplained changes in the number or nature of valid concerns raised by employees, indications of hesitancy on the part of employees to discuss certain issues appearing to be of concern to them, and the timeliness of the Contractor's corrective actions in addressing employee concerns, or the lack of such action.

The inspector must always remember, even under the best of circumstances, the fact a federal inspector is interviewing a Contractor employee generally puts most employees under stress and on the defensive. Employees often will not volunteer useful information under such circumstances. It is essential to put the interviewee at ease before discussing sensitive issues, and such issues must be discussed cautiously. The objective of the interview is to obtain as much factual information as the employee can provide. However, employees often volunteer unsolicited and unexpected information that may provide useful insights into the Contractor's program and in resolving the concern. The inspector should encourage such free-flowing, relevant discussions. In addition, the concerned individual's attitude towards the work, co-workers, and management is an important indicator that should be pursued by the inspector. Such information could provide the inspector with helpful impressions in assessing the validity of the safety concern, and may also point to areas requiring further inspection. The inspector should be alert and not be misled by the biased impressions of a disgruntled employee.

In limited instances, it may not be possible to resolve a concern. In such cases, the inspector should inspect the Contractor's programs connected with the concern. Such an inspection should focus on, among other things, the performance of management and staff, procedure adherence, quality assurance program implementation, and records review and maintenance. The inspector should be alert to issues having generic implications within the Contractor's operation.

The Contractor is responsible for taking the necessary action to avert hazards to public health and safety. Therefore, an inspector normally should not intervene in Contractor operations solely because of information he or she may have gained from an inspection or a concerned individual. However, if the inspector is in a position to prevent a radiation overexposure or other significant health and safety issue from occurring, then he or she should intervene. If, in the inspector's judgment, there is adequate time to consult with OSR management on the appropriate course of action to take, then that is the preferred course of action. However, if this is not possible, then the inspector should intervene in the Contractor's activities, alert the Contractor to the danger, and request a halt to the activity in question. This should be done without revealing the concerned individual's identity. If this is not possible and the danger is significant, the inspector may reveal the concerned individual's identity without prior consultation with OSR management and specific approval from the RL-OSC manager, or the concerned individual. If the concerned individual's identity is or may have been revealed as a result, the inspector must notify OSR management as soon as possible.

During an inspection initiated by an employee concern, information may provide strong indications wrongdoing may have been involved. If at any time during the inspection wrongdoing is suspected the inspector should promptly notify the VCO.

Depending on the nature of the inspection during which the safety concern was reviewed, an inspection report may or may not be written. However, some method of documenting the activities performed to determine the validity of the concern and the observations must be provided consistent with OSR procedures and MD 1.8, with a copy of the documentation placed in the employee concern file. The employee also shall be notified of the OSR disposition of the concern by either OSR or the RL-OSC coordinator. No reference to follow-up of an employee concern should be entered in the inspection reports or other documents placed in the OSR Contractor file. If an inspection report is written, it should not contain any reference to the employee concern or the concerned individual. The issues raised in the concern, as well as the inspection observations and resolution of any problems, should be discussed in the report without reference to a concern. The observations and manner of resolution of the safety concern should be discussed with the VCO who will then notify the RL-OSC of the observations and close the employee concern if the issues were resolved.

Unless a request for information under the Freedom of Information Act (FOIA) was received during a safety concern review, documents related to the case should be reviewed and only those necessary to document the official safety concern response and resolution should be retained. With the exception of information maintained by the VCO in the official employee safety concern file, all other documents used in reviewing the concern should be destroyed or disposed of in the same manner as other sensitive documents. If an FOIA request was received during the review, all documents generated up to the time of processing the request must be retained. Any documents generated subsequent to the request may be disposed of in the manner described above. All documents released under an FOIA request must be processed through the VCO and redacted to protect the identity of the concerned individual and any safeguards or proprietary information.

Attachments: None

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