

**INSPECTION TECHNICAL PROCEDURE**

**I-128**

**PRICE ANDERSON AMENDMENTS ACT (PAAA) PROGRAM  
ASSESSMENT**

October 24, 2002

Revision 0

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# INSPECTION TECHNICAL PROCEDURE I-128, REV. 0 PRICE ANDERSON AMENDMENTS ACT (PAAA) PROGRAM ASSESSMENT

## 1.0 PURPOSE

This inspection procedure provides guidance to assess the Contractor's program for identifying, reporting, correcting, and tracking Price Anderson Amendments Act (PAAA) Noncompliances. This guidance is based on the requirements set forth in the Contractor's Integrated Safety Management Plan (ISMP), Section 2.5, and the DOE Office of Enforcement and Investigation Enforcement Guidance Supplement 00-02, *Price Anderson Amendment Act (PAAA) Program Reviews*. Specifically, this procedure addresses assessment of the adequacy and effectiveness of the following:

- Effectiveness of procedures
- Identification and screening of noncompliances
- Evaluation for reportability
- Cause determination/corrective action closure
- Assessments/quality improvement.

## 2.0 OBJECTIVES

The objective of this procedure is to verify the Contractor has implemented a program for identifying, reporting, correcting, and tracking PAAA noncompliances in accordance with the following documents:

- DOE Office of Enforcement and Investigation, Enforcement Guidance Supplement 00-02, Price Anderson Amendment Act (PAAA) Program Reviews
- RL/REG-98-06, *Corrective Action/Enforcement Action Program Description*
- Contractor's commitments as set forth in the Integrated Safety Management Plan, Section 2.5.

The PAAA provides indemnification to the Department of Energy (DOE contractors, subcontractors, and suppliers who manage or conduct nuclear activities in the DOE complex. The Code of Federal Regulations (CFR) section 10 CFR 820, *Procedural Rules for DOE Activities*, describes DOE enforcement procedures for nuclear safety noncompliances. Appendix A to 10 CFR 820 sets forth the DOE enforcement policy, and includes a description of actions contractors may take in terms of identification, reporting, tracking and completion of corrective actions, and the possible mitigating effects such actions may have on any proposed civil penalties for PAAA noncompliances.

Contract No. DE-AC27-01RV14136, Standard 7, paragraph (e)(2)(iii) states, “The Contractor’s Integrated Safety Management Plan shall . . . accept: (B) RL/REG-98-06, *Corrective Action/Enforcement Action Program Description* (CAEAP). Section 7.5 of the CAEAP states, “The Contractor has the primary responsibility for identifying noncompliances with DOE nuclear safety rules and reporting these noncompliances to Price Anderson (PA) Enforcement. Accordingly, once it has been determined that a noncompliance with nuclear safety exists, the Contractor after notifying the Office of Safety Regulation (OSR), will determine if reporting the noncompliance to PA Enforcement is required by enforcement policy and guidelines. Reporting of noncompliances to PA Enforcement is accomplished through the DOE Noncompliance Tracking System (NTS).”

The Contractor’s Integrated Safety Management Plan, Section 2.5, states, “To facilitate compliance to 10 CFR 820, including nuclear safety requirements contained within the regulation, training and procedures will be developed in Part B for the following activities: 1) Identifying, reporting, correcting, and tracking noncompliances.”

DOE’s Office of Enforcement and Investigation has the responsibility for enforcement action. Enforcement Guidance Supplement 00-02, *Price Anderson Amendment Act (PAAA) Program Reviews*, dated August 21, 2000, provides guidance for reviews of contractor programs for identification, screening, and reporting of PAAA noncompliances.

This inspection procedure provides OSR inspection requirements specific to PAAA noncompliance identification, screening, and reporting, as required by the contract, and recognizes and adopts the specific guidance developed by the Office of Enforcement and Investigation.

### **3.0 INSPECTION REQUIREMENTS**

#### **3.1 Effectiveness of Procedures**

- 3.1.1 The inspectors should verify the Contractor's procedures were in place and being followed for identifying potential PAAA noncompliances. (ISMP, Section 2.5)
- 3.1.2 The inspectors should verify the Contractor’s procedures were in place and being followed for reporting PAAA noncompliances through the Noncompliance Tracking System (NTS). (ISMP, Section 2.5; RG/REG-98-06, Section 7.5)
- 3.1.3 The inspectors should verify the Contractor’s procedures were in place and being followed for correcting the PAAA noncompliances. (ISMP, Section 2.5)
- 3.1.4 The inspectors should verify the Contractor’s procedures were in place and being followed for tracking PAAA noncompliances. (ISMP, Section 2.5)

## **4.0 INSPECTION GUIDANCE**

The following inspection guidance was developed from PAAA Program Review Criteria developed by EH-Enforcement staff as a guide for the performance of PAAA Program Reviews. The criteria may be used (wholly or in part) during the conduct of the review. Additionally, inspectors may evaluate other areas as appropriate. Many of the following criteria may be evaluated prior to the actual onsite evaluation through the review of documentation obtained independently or through the document request.

Prior to the inspection, the inspectors should review the Contractor's procedure 24590-WTP-GPP-QA-101\_0, *Price Anderson Amendments Act Compliance and Reporting*, and any other related procedures.

### **4.1 Effectiveness of Procedures**

- 4.1.1 The inspectors should review documents to determine formally approved policies and procedures were in place to describe the PAAA program. The inspectors should confirm PAAA procedures describe key program elements (e.g., roles and responsibilities, training, screening/reporting, trend evaluation, cause determination, tracking and completion of corrective actions, closure verification) with sufficient detail to provide for effective implementation.
- 4.1.2 The inspectors should review organizational charts to determine a PAAA Coordinator/Manager had been formally designated and had adequate authority and independence to make decisions without undue pressure from the line organization. The inspectors should determine if adequate numbers of qualified support/matrix staff were available to meet program responsibilities.
- 4.1.3 The inspectors should review documents to determine a formal PAAA training had been established and was being implemented on site. [Note: The training may be category/target specific, for example, general PAAA training for managers and specialized PAAA training on forms and procedures for screeners.]
- 4.1.4 The inspectors should review documents to determine the scope of the site PAAA program was applicable to the activities performed by subcontractors and suppliers, as well as principal site contractors. The inspectors should review procurement documents to confirm the Contractor informed their subcontractors and suppliers of their responsibilities in the area of PAAA.

### **4.2 Identification and Screening of Noncompliances**

- 4.2.1 The inspectors should review documents to confirm confirm PAAA identification and screening procedures ensured a diverse set of source documents (e.g., assessments, nonconformance reports, occurrence reports, employee concerns, external assessments, deficiency reports) were forwarded for screening.

- 4.2.2 The inspectors should review documents to confirm PAAA procedures ensured PAAA noncompliances were captured, and that noncompliances were not screened out on the basis of inappropriate criteria. (Note: Examples of inappropriate criteria include ruling out noncompliances on the basis of prompt corrective action, judgment of low significance by evaluator, or since noncompliance did not directly involve the handling of nuclear material.)
- 4.2.3 The inspectors should review documents to confirm personnel performing initial screens of source documents were qualified and had received training on the screening process.
- 4.2.4 The inspectors should review screening documentation for the past year to verify a broad spectrum of source documents was represented. The inspectors should determine if input from secondary sources (i.e., subcontractor/supplier-related information) was included.
- 4.2.5 The inspectors should independently review recent site operating experience via review of ORPS, DNFSB trip reports, etc. The inspectors should evaluate the reports for potential trends and programmatic issues. The inspectors should review documents to determine whether these deficiencies were appropriately dispositioned.
- 4.2.6 The inspectors should independently select several Contractor source documents (e.g., assessment reports, deficiency reports) to confirm the documents identify deficiencies that represented potential noncompliances. The inspectors should determine through review of screening documentation whether these source documents were formally screened and appropriately dispositioned.
- 4.2.7 The inspectors should confirm items identified as PAAA noncompliances were forwarded for review of NTS reportability.
- 4.2.8 The inspectors should confirm items identified as PAAA noncompliances were entered onto a formal tracking system and identified as PAAA noncompliances on that system.
- 4.2.9 The inspectors should review the status list of non-reportable PAAA noncompliances identified by the Contractor over the past year for the following:
- A “reasonable” number of noncompliances were identified, based on volume of activities and number of source documents screened
  - The noncompliances reflect a mix of 10 CFR 830 and 10 CFR 835 items, and were identified through the assessment program as well as through events
  - Corrective actions were completed on schedule, with appropriate follow-up if not completed.
- 4.2.10 The inspectors should review selected ORPS and deficiency report items that were judged not to be PAAA noncompliances to evaluate the Contractor’s judgment process.

### 4.3 EVALUATION FOR REPORTABILITY

4.3.1 The inspectors should review documents to confirm procedures used to describe and control the process of evaluating identified noncompliances for NTS reportability included the following:

- Identification/designation of individuals with responsibilities for evaluation for reportability, approval, and NTS report generation.
- Formal process to be used for reportability determination, with documentation of results. [Note: Specific evaluation criteria and thresholds should be included in the procedure.]
- Methodology used for evaluating potential repetitive or programmatic noncompliances.

4.3.2 The inspectors should review documents to confirm individual(s) making final determination on NTS reportability were qualified and had received appropriate training.

4.3.3 The inspectors should review documents to confirm the reportability threshold criteria and reporting timeframes contained in PAAA procedure(s) were consistent with EH-Enforcement guidance. The inspectors should confirm procedure(s) did not provide for the screening-out of reportable noncompliances through use of inappropriate criteria.

4.3.4 The inspectors should review the status list of non-reportable PAAA noncompliances identified by the Contractor over the past year for the following:

- Observable trends and/or potential programmatic noncompliances were appropriately recognized and reported.
- Review the judgment process used by the Contractor to determine NTS non-reportability for selected noncompliances of apparent significance.
- Evaluate the ratio of total number of NTS non-reportable/reportable PAAA noncompliances. [Note: Although ratios will vary, the inspector should expect the number of non-reportables to be greater than reportables, particularly at sites with a well-functioning assessment program.]
- Review documentation for several recent instances where PAAA noncompliances were evaluated as requiring NTS reportability. The inspectors should determine:
  - if the decision process was performed in accordance with procedure(s),
  - if the conclusion was appropriate, and
  - if NTS reporting was timely (generally within 20 calendar days after determining a noncompliance condition exists).
- Review the process used by the Contractor to evaluate PAAA noncompliances for repetitiveness. The inspectors should review documents to ensure appropriate

timeframes are used to make this judgment. [Note: At one reviewed site, Contractor procedures required an annual review for trending/repetitiveness. This timeframe did not provide for effective and timely identification of recurring deficiencies. More commonly, sites review each noncompliance as they occur against previous occurrences – a “rolling window.”]

- 4.3.5 The inspectors should review documents to determine whether program performance indicator data (i.e., number of NTS reportable noncompliances, total number of PAAA noncompliances, etc.) was maintained and routinely reported to senior management.

#### **4.4 Cause Determination/Corrective Action Closure**

- 4.4.1 The inspectors should review documents to confirm the Contractor’s procedure(s) included/required the following elements relative to corrective action development, tracking, and closure:

- Identified PAAA noncompliances and associated corrective actions were formally tracked.
- Significant noncompliances were evaluated by formal causal analysis.
- Corrective actions were developed and implemented in a timely manner.
- Validation/verification of completed corrective actions for significant noncompliances prior to closure.

- 4.4.2 The inspectors should review documents to confirm documentation for selected NTS reportable noncompliances ensured the following:

- A formal investigative/causal analysis was performed in a timely manner (generally within 45 days of determining a noncompliance exists).
- Corrective actions correlated to causes were identified through analysis.
- For repetitive noncompliances, the causal analysis for the more recent noncompliance took into account earlier noncompliances, corrective actions, and their efficacy.
- NTS report and corrective actions provided input into site Lessons Learned processes, as appropriate.
- Actions taken to close a corrective action were the same as those committed to in the original action.
- Verification process for corrective actions was effectively implemented in accordance with procedures.



4.4.3 The inspectors should review summaries of corrective action closure statuses for identified PAAA noncompliances and any related databases (i.e., deficiency reports, ES&H assessments, etc.) to determine if the Contractor was completing actions within the committed milestone dates.

#### **4.5 ASSESSMENTS/QUALITY IMPROVEMENT**

4.5.1 The inspectors should obtain and review assessments for overall adequacy, clarity of findings, etc.

4.5.2 The inspectors should review the assessments to confirm that identified findings were reviewed for PAAA applicability and NTS reportability.

4.5.3 The inspectors should independently select several significant assessment findings and crosscheck them against PAAA screening and evaluation documentation to verify they were appropriately reviewed.

4.5.4 The inspectors should review completed 10 CFR 835 internal audits for the following:

- Coverage of all major 10 CFR 835 areas (subparts) over a three-year period.
- Conducted by qualified individual(s) who were organizationally independent from the organizations responsible for developing and implementing the Radiation Protection Program.
- Findings were appropriately PAAA screened, tracked, and closed.

4.5.4 The inspectors should compare Office of Enforcement and Investigation PAAA review findings with the results of Contractor assessments of this area. The inspectors should discuss differences with appropriate staff (i.e., PAAA Coordinator, Lead Auditor, etc.).

#### **5.0 REFERENCES**

10 CFR 830, "Nuclear Safety Management," *Code of Federal Regulations*, as amended.

*Integrated Safety Management Plan*, BNFL-5193-ISP-01, Rev. 5, Bechtel National, Inc., Richland, Washington, 2001.

RL/REG-98-06, *Corrective Action/Enforcement Action Program Description*

Attachments: None