
Manual Chapter 2604

LICENSEE PERFORMANCE REVIEW

2604-01 PURPOSE

This manual chapter provides guidance for reviewing fuel cycle licensee performance in maintaining adequate protection of public health and safety, the environment, and common defense and security. The results of such a review should:

- Provide an overview of licensee performance to U.S. Nuclear Regulatory Commission (NRC) management.
- Inform licensees and the public how the NRC assesses facility performance.
- Provide a basis for adjusting the fuel cycle facility inspection program, including such areas as focus, frequency, and resources.

2604-02 OBJECTIVES

02.01 To describe the processes for reviewing fuel cycle facility licensee performance.

02.02 To ensure the consistency of the review process from one facility to another, and among different NRC Regional Offices.

02.03 To ensure that the reviews are performed in a timely, effective, and efficient manner.

02.04 To ensure that the reviews are focused on determining whether safety and safeguards have been adequately maintained.

2604-03 DEFINITIONS

03.01 Functional Areas. The following definitions describe the program and functional areas that form the basis for the Licensee Performance Review (LPR). Each functional area is comprised of two or more fuel cycle inspection program areas.

- a. Safety Operations. Operations involving plant operations, nuclear criticality safety, chemical process safety, and fire protection.

1. Plant Operations. Verifying that the licensee has instituted effective management measures to provide for safe operation of the facility during both routine and upset conditions, to recognize non-routine events affecting safety, utilize an internal reporting system, and to identify and execute corrective actions to return the plant to a safe and secure condition after possible upsets.
 2. Chemical Process Safety. Verifying that the licensee has implemented adequate measures for protection of workers, the public and the environment from hazardous chemicals that could adversely affect radiological safety or could be released from the processing of licensed radioactive material.
 3. Criticality Safety. Verifying that the licensee has implemented adequate controls to prevent an inadvertent nuclear criticality (as applicable).
 4. Fire Protection. Verifying that the licensee has implemented controls to ensure that fires would not occur or would be limited in such manner that the safe handling and storage of nuclear material could be maintained.
- b. Safeguards. Material control and accounting, physical protection of special nuclear material, and classified material and information security.
1. Material Control and Accounting. Verifying that the licensee effectively verifies the quantity, form, and location of all special nuclear material, including material in process, under the licensee's control.
 2. Physical Protection. Verifying that the licensee effectively protects against malevolent acts of theft, diversion, or dispersal of licensed radioactive material.
 3. Classified Material and Information Security. Verifying that the licensee effectively controls classified and restricted material and information, unclassified controlled nuclear information, and safeguards information, to prevent unauthorized disclosure, modification, loss or theft.
- c. Radiological Controls. Radiation protection, environmental protection, waste management, and transportation.
1. Radiation Protection. Verifying that the licensee has established and implemented a radiation protection program that effectively protects the plant's workers, the public, vendors, and visitors against radiation health hazards.
 2. Environmental Protection. Verifying that the licensee has established and implemented a program that effectively protects the environment by measuring and controlling releases.
 3. Waste Management. Verifying that the licensee has established and implemented an effective program to manage radioactive waste.

4. Transportation. Verifying that the licensee has established and implemented an effective program for preparing licensed nuclear materials for shipment, shipping the materials, and for the safe opening of packages containing licensed materials received at the facility.
- d. Facility Support. Management measures and systems that support safe operations throughout the facility, including maintenance, surveillance testing, management organization and controls, training, and emergency preparedness.
1. Maintenance/Surveillance. Verifying that the licensee has established and implemented effective programs for both corrective and preventive maintenance, configuration management, and surveillance testing activities, that cover all items relied on for safety and safeguards.
 2. Training. Verifying the qualification and training of personnel relied on to perform functions necessary for adequate safety and safeguards.
 3. Emergency Preparedness. Verifying that the licensee has established and implemented an effective emergency management program to protect the workers, public, and the environment in the event of reasonably postulated events that could threaten the facility.
 4. Management Organization and Controls. Verifying that the licensee provides appropriate management and control systems such as internal reviews and audits, safety committees, and quality assurance programs, to maintain effective management oversight of facility operations.
- e. Special Topics. These are issues that may arise on an occasional basis, but are not included in the review on a routine basis unless the significance of the issue rises to a level that is perceived to affect the quality of licensee performance. Examples include quality of licensing submittals, deviations from commitments in confirmatory action letters, licensing of new processes at an existing facility, and labor difficulties.

03.02 Areas Needing Improvement. Risk-significant recurring performance (root causes or events) requiring resolution or corrective action. Needs to meet the standard of acceptable risk in accordance with requirements.

2604-04 RESPONSIBILITIES AND AUTHORITIES

04.01 Director, Office of Nuclear Material Safety and Safeguards (NMSS)

- a. If a licensee's performance is inadequate in any area, then he/she may request briefing from staff on licensee performance.

04.02 Regional Administrator for responsible region

- a. Optionally, meets with licensee senior management, after being briefed by staff, to discuss results of review.

04.03 Director, Division of Fuel Cycle Safety and Safeguards (FCSS)

- a. Provides for the appropriate branch level personnel at Headquarters to participate in licensee performance reviews of the major fuel cycle facilities within each region, in coordination with the regional staff conducting each review.
- b. Comments and concurs on LPR conclusions.
- c. Optionally, participates in LPR meeting for subject facilities with a number of areas needing improvement .
- d. Establishes and approves modifications to the LPR program.

04.04 Regional Director, Division of Nuclear Materials Safety (DNMS), for responsible region

- a. Provides for the appropriate branch level personnel in the region to conduct licensee performance reviews of the major fuel cycle facilities within the region.
- b. Optionally, participates in LPR meeting for subject facilities with a number of areas needing improvement.
- c. Signs and issues the LPR.

04.05 Chief, Special Projects and Inspection Branch (SPIB)

- a. Coordinates scheduling of licensee performance reviews in accordance with this Manual Chapter (MC) and the Operating Plan.
- b. Monitors and reviews the LPR program, and recommends modifications to the program, as necessary, to Director, FCSS.
- c. Reviews and concurs on the LPR .
- d. Coordinates with the Chief of the Fuel Cycle Facilities Branch (FCFB) to arrange for the appropriate personnel to participate in the LPR meeting, and coordinate Headquarters input.
- e. Coordinates FCSS participation in the LPR meeting for the subject facility.

04.06 Cognizant Regional Branch Chief

- a. Coordinates licensee performance reviews in accordance with this MC and schedule.
- b. Leads the LPR meetings for subject facilities.

- c. Arranges for the appropriate personnel to participate in the preparation of the LPR.
- d. Recommends modifications to the program, as necessary, to the Chief, SPIB.
- e. Makes the LPR Letter Report, and performance information presented by the licensee and the NRC at the LPR public meeting, available to the public.

2604-05 PROGRAM OVERVIEW

05.01 The process described in this manual chapter is designed to provide an assessment of licensee performance to NRC management, while minimizing staff effort beyond that required for routine fuel cycle facility licensing and inspection activities. The information is also provided to the licensee's senior management and to interested members of the public, to apprise them of licensee performance.

2604-06 PROGRAM DESCRIPTION

06.01 The review of each fuel cycle licensee's performance will be conducted at the Branch level under the direction of the DNMS in the region responsible for the subject facility. Key branch-level staff from the cognizant regional office and FCSS will discuss and summarize the licensee's performance via telephone or video conference.

06.02 The regional staff will assemble the information, conclusions, and recommendations developed at the meeting into a form suitable for presentation to the Directors of FCSS and the cognizant DNMS, with the concurrence of participating branch chiefs.

06.03 Following approval by the cognizant Director, DNMS, the LPR Report will be transmitted to the licensee's senior management, and the results of the review will be discussed at a public meeting with the licensee. The level of NRC participation in the meeting will be a function of the number and significance of the areas needing improvement. An LPR conveying few, or no, performance issues would generally be conducted by the Regional Branch Chief with staff in attendance. Performance with a number of areas for improvement may result in participation in the meeting by higher levels of NRC management.

06.04 The results of the review may be used to support changes in the inspection and licensing program for the subject facility to focus NRC resources where they are most needed. The changes will be incorporated into the facility's individualized Master Inspection Plan. The results may also be used to identify needed modifications to the NRC licensing and inspection program.

06.05 Significant safety and safeguards performance issues should be identified and addressed in a timely manner through the normal inspection and enforcement process. Within the context of the LPR, if significant issues need to be addressed at a higher management level, then staff and supervisors should recommend management attention.

2604-07 PERFORMANCE REVIEW SCHEDULING

07.01 The time span to complete the LPR process should be approximately 8 weeks from the time staff is initially requested to provide assessment information until the LPR report is transmitted to the licensee. A sample generic schedule of the process is provided in Enclosure 1, "Generic Schedule for Licensee Performance Review."

07.02 A performance review shall be conducted for each active fuel cycle facility every 12 to 24 months, depending on the facility's safety risk and previous safety and safeguards performance. The Chief, SPIB shall coordinate the scheduling of licensee performance reviews with the regional offices to minimize undue impacts on the workloads of the participating organizational units.

07.03 The region responsible for the subject facility shall notify participants of the review schedule (see Enclosure 2, "Sample Licensee Performance Review Notification Memo") and request that they provide their assessment information within 3 weeks. This information should be submitted in a concise form, i.e., bullet-style format, that characterizes the licensee's performance during the review period, and should be drawn from inspection reports, licensing correspondence, and other documents generated by NRC and already possessed by the licensee.

07.04 The licensee performance review meeting should be announced at the same time, and be scheduled to be held approximately 2 weeks after the assessment information is due to be received. After receipt of the assessment information, the region shall send copies of the collected information to all participants so that it is available for their review approximately 1 week before the meeting is held. The meeting should be facilitated through the use of e-mail, telephone conferencing, or other communications technology, to ensure full effective and efficient participation by the appropriate personnel.

07.05 The regional staff shall draft the LPR report using the format in Enclosure 3, and will transmit it to NRC management for review, concurrence and approval. The LPR Letter Report will be sent to the licensee upon approval by the cognizant Director, regional DNMS.

07.06 In conjunction with transmitting the letter report to the licensee, the cognizant regional Branch Chief will arrange for a meeting with licensee senior management, at a location on or near the plant site, to discuss the results of the LPR. The meeting will be open to members of the public as an NRC category type I public meeting.

2604-08 REVIEW PROCESS

08.01 Participants in the LPR meeting shall briefly discuss facility activities, quality of performance during the review period for the specific functional areas within their responsibility (see section 04-10). Comparison to the previous LPR may be discussed.

08.02 For each program area, participants should evaluate licensee performance using the factors provided in Section 04-9 and Enclosure 4, "Sample Licensee Performance Review Guide." Conclusions regarding licensee performance shall be reached by consensus of those attending. Where divergent opinions are expressed, and no clear

consensus on a particular issue can be reached, the diverging opinions should be summarized and documented, and presented together with the other results of the review meeting. Emphasis will be on the adequacy of licensee performance, and the results of the review meeting should be expressed in terms of any areas needing improvement important to the safe and secure operation of the facility. Meeting results and conclusions will be limited to safety or safeguards-significant issues, and minor issues will not be aggregated.

Participants in the review meeting should be mindful that observed performance history may be open to wide interpretation. Therefore, discussion of performance should be supported by specific references to the events, licensing reviews, or inspection findings distributed over the review period. Supporting references (e.g., inspection report numbers and sections, event report numbers) should be specified for each issue in the draft LPR report.

08.03 The cognizant regional branch shall document the conclusions and recommendations reached at the licensee performance review meeting, relevant supporting data presented, and any other results of the review process in the LPR report. The report should separately address performance in each of the functional areas, as well as discuss overall history and patterns in performance that may affect multiple areas. A recommendation should be included for NRC to continue the current inspection and licensing program for the facility without changes, or modify it in specified ways, with reference to the results of the review.

08.04 The results of the review shall be presented, after concurrence by the participating Branch Chiefs, as follows:

- a. The letter Report shall be in the form of a brief cover letter containing a summary of the significant results of the review, with an attachment, in "bullet-style" format, that presents the more detailed results of the review, with references to specific inspection findings and event reports that support the results of the review. A sample of the appropriate bullet-style format is provided in Enclosure 3.
- b. The letter report may describe licensee program areas that may be candidates for changes in the NRC inspection program, including possible changes in focus, emphasis, or inspection frequency. However, the report should not commit to making specific changes in the inspection and licensing program in quantitative terms, pending a broader consideration of safety risk and licensee performance at other facilities, and of overall use of NRC inspection and safeguards licensing resources.

The LPR letter report will be approved by the cognizant regional DNMS Director, with concurrence by the Director, FCSS.

2604-10 FUNCTIONAL AREAS

10.01 The Licensee Performance Review shall consider the licensee's performance in each of the following four program areas. Staff will assess inspection findings and events for safety-significance as well as the effectiveness of management measures, including, but not limited to: corrective action, configuration control, procedures, and training

programs. For each of the functional areas, corresponding inspection organizations primarily responsible for addressing each area at the LPR meeting are listed:

Functional Area Discussion Lead

Safety Operations

Chemical Process Safety - FCSS/SPIB

Criticality Safety - FCSS/SPIB

Fire Protection - FCSS/SPIB

Plant Operations - Regional Branch, DNMS

Safeguards

Material Control & Accounting - FCSS/SPIB

Physical Protection - Regional Branch, DNMS

Classified Material - Regional Branch, DNMS

Radiological Controls

Radiation Protection - Regional Branch, DNMS

Environmental Protection - Regional Branch, DNMS

Waste Management - Regional Branch, DNMS

Transportation - Regional Branch, DNMS

Facility Support

Maintenance/Surveillance - Regional Branch, DNMS

Management Organization & Controls - Regional Branch, DNMS

Training - Regional Branch, DNMS

Emergency Preparedness - Regional Branch, DNMS

Special Topics

Licensing - FCSS/FCFB

Each of these functional areas is defined in Section 3.01. These areas are intended to closely parallel the corresponding inspection program.

END

Enclosures:

1. Generic Schedule For Licensee Performance Review
2. Sample Licensee Performance Review Notification Memo
3. Licensee Performance Review Report Format
4. Sample Licensee Performance Review Guide

ENCLOSURE 1

GENERIC SCHEDULE FOR LICENSEE PERFORMANCE REVIEW

<u>Time Since Review Was Initiated</u>	<u>Action</u>
Start	Region requests staff to provide assessment information within 3 weeks, and announces Licensee Performance Review Meeting, to be held in approximately 6 weeks
3 weeks	Information received by region from staff
4 weeks	Collected information organized and distributed (with final meeting agenda) to participating staff for consideration at staff meeting
5 weeks	Region holds LPR Meeting for staff to develop consensus on licensee performance.
6 weeks	Regional staff completes preparation of draft LPR materials and distributes them to participating Branch Chiefs, for concurrence. A conference call may be scheduled.
7 weeks	Branch Chiefs concur on draft LPR materials and distribute them to the Directors of FCSS and DNMS
8 weeks	Directors, FCSS and DNMS, comment and concur on LPR conclusions, and regional Branch Chief transmits them to licensee.
12 weeks	Regional management conduct a meeting with licensee senior management that is open to the public

ENCLOSURE 2

SAMPLE LICENSEE PERFORMANCE REVIEW NOTIFICATION MEMO

MEMORANDUM TO: [REGIONAL BRANCH CHIEF AND HEADQUARTERS SECTION CHIEFS]

FROM: [DIRECTOR, Division of Nuclear Material Safety, REGION X]

SUBJECT: FUEL FACILITY LICENSEE PERFORMANCE REVIEW

The Licensee Performance Review (LPR) Meeting for [Fuel Facility Name] is scheduled for [Date], at [Time] o'clock (EST), in room [Room #] at [Building Name]. An agenda and relevant facility background data are enclosed. Resident Inspectors (as appropriate), project inspectors, project manager, and license reviewers (if appropriate) for the facility should be available, by telephone conference call, if necessary, to participate in this meeting. A bridge phone number will be provided before the meeting.

In preparation for this meeting, you are requested to provide concise statements of your assessment of the licensee's performance relative to each of the functional areas (described in MC 2604) for which you have responsibility. These statements should be based on your personal knowledge of the licensee's performance, during the review period, in the functional areas for which you have responsibility, and be supported by specific information, inspection findings and events. Where trends in performance are indicated, the dates of the activity, specific inspection findings or incidents that occurred during the current or previous review periods should also be provided.

Participants should be prepared to discuss their assessments, and their recommendations for modifying the NRC inspection program at each facility. The review will cover the period from [Date Start] to [Date End].

Enclosures:

1. Agenda
2. LPR Guide

ENCLOSURE 3

LICENSEE PERFORMANCE REVIEW REPORT FORMAT

The standardized format below shall be used for attachments to Licensee Performance Review Letter Reports.

The following is a summary of the performance of [facility name] in the conduct of NRC licensed activities.

PERFORMANCE AREA: SAFETY OPERATIONS

This area is comprised of chemical safety, criticality safety, plant operations, fire safety, and management controls.

Program Areas Needing Improvement (EXAMPLE)

- Management of non-operating procedures for safety-related programs
 - The program management procedure system showed a lack of attention to detail by procedure reviewers and that periodic reviews were not being completed in a timely manner (IR 01-03).
 - The inspectors found that several of the practices and procedures had not been updated within the two year time frame required by the licensee's program.
- Item of information
 - Detail
 - Detail
 - amplifying sub-bullet (if required)

PERFORMANCE AREA: SAFEGUARDS

[repeat safety operations format for each functional area]

ENCLOSURE 4

SAMPLE LICENSEE PERFORMANCE REVIEW GUIDE

Considering the current set of evaluation factors (as described in MC 2604, or as amended thereafter), please review the following aspects of licensee performance for the subject facility. Then, submit a brief, bullet-style summary of your understanding of the quality of the licensee's performance for each functional area (ref. MC 2604, 10.01) within your responsibility.

1. Overall plant status relative to functional area;
2. Enforcement history during the period, including pending enforcement, and incomplete escalated enforcement actions from prior review periods;
3. Open items and inspection follow-up items that arose during the review period;
4. Facility events or conditions that resulted in special or reactive inspections conducted during the review period;
5. Licensee activities or conditions that might challenge, stress, or alleviate stress on, the licensee's programs for maintaining safe operations (e.g., new processes, increased throughput, higher enrichment, new kinds of nuclear material or hazardous chemicals, etc);
6. Licensee performance trends (provide dates and descriptions of specific activities, inspection findings or incidents); and
7. Recommended changes in NRC inspection effort (e.g., focus, emphasis, resources, frequency) for each functional area (as listed in Section 10.01 of MC 2604) within your responsibility.

On submission of the assessments, the Division of Nuclear Material Safety, for Region [#], will summarize them, and distribute copies to all participants one week before the Licensee Performance Review Meeting for the subject facility.