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## INSPECTION PROCEDURE 92709

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### CONTINGENCY PLANS FOR LICENSEE STRIKES OR LOCKOUTS

PROGRAM APPLICABILITY: **IMC 2201C, IMC 2515C, IMC 2600B, IMC 2681E3**

#### 92709-01 INSPECTION OBJECTIVES

To evaluate the adequacy of the licensee's contingency plan prior to the strike/lockout to determine if:

- a. The required minimum number of qualified personnel will be available for the proper operation, security, and safety of the facility.
- b. Reactor operation and facility security will be maintained as required.
- c. The plan complies with the requirements in Technical Specifications and the Code of Federal Regulations (CFR).

#### 92709-02 INSPECTION REQUIREMENTS

- 02.01 Determine the adequacy of the licensee's strike/lockout contingency plans and whether these plans have been reviewed by the facility's safety review committees or appropriate managers.
- 02.02 Determine the adequacy of the licensee's safeguards contingency plan.
  - a. The availability and operability of equipment required.
  - b. The requirements for minimum onsite shift staffing of the facility.
  - c. The licensee has scheduled covered workers such that the work hours conform to the requirements specified in 10 CFR 26.205.
- 02.03 Determine if the licensee's contingency plan will meet the requirements for minimum onsite shift staffing of the facility. Verify that the licensee has scheduled covered workers such that the work hours conform to the requirements specified in 10 CFR 26.205.

- 02.04 Determine if the licensee's contingency plan will meet regulatory requirements in the following areas:
- a. Plant management
  - b. Operations
  - c. Maintenance
  - d. Security
  - e. Chemistry and radiation protection
  - f. Surveillance and calibrations
  - g. Administrative controls
  - h. Nuclear criticality safety (fuel facility)
  - i. Material control and accounting (fuel facility)
- 02.05 Determine if licensed personnel who will be performing licensed activities are qualified, per 10 CFR 55.53(e) and (f).
- 02.06 Prior to the strike/lockout, perform the following:
- a. Verify that the licensee has properly trained, or will have trained prior to shift assignment, non-licensed personnel who will be performing functions to which they are not normally assigned.
  - b. Verify through observation and discussion with one of each of the following plant personnel that they understand their function under the modified staffing plan as follows:
    1. Plant management.
    2. Senior reactor operators and reactor operators (at reactor sites), plant operators (at fuel facilities).
    3. Maintenance.
    4. Health Physics.
    5. Security supervision.
    6. Other personnel responsible for operational or safety functions.

- c. Evaluate the effectiveness of site security.
- 02.07 Verify that support from local agencies is adequate to ensure the following:
- a. Unimpeded access of personnel to the plant.
  - b. Unencumbered delivery of support goods to the site and unencumbered offsite shipment of radioactive materials.
  - c. Mitigation of any possible threat to the site, including abusive or violent strikers.
  - d. Unimpeded access of medical care and ambulance services to treat injured or contaminated persons.
  - e. Unimpeded access of the local fire department to supplement the site fire fighting unit.
- 02.08 Confirm that site staffing will be sufficient and qualified to implement the site emergency plan.
- 02.09 Verify that the emergency communication equipment and the Emergency Notification System, or criticality alarm system, where applicable, are available and operable.
- 02.10 Meet with the site employee concerns program (ECP) coordinator or ombudsman to determine if contract negotiations have had any adverse impact on the safety conscious work environment at the site.

#### 92709-03 INSPECTION GUIDANCE

General Guidance. Events have shown that, once negotiations have gone beyond the end of a contract date, bargaining unit personnel can strike (Oyster Creek 2003, Nine Mile Point 2011), or licensee management can decide to lock out bargaining unit personnel (Fermi 1992, Honeywell 2010 and Pilgrim 2012) with little or no warning. Even if negotiations are ongoing and bargaining unit staff plan to work without a signed agreement, implementation of this inspection procedure should occur four to six weeks prior to the expiration of the current contract so that sufficient time exists to resolve any discrepancies that may be identified in the licensee's contingency plan. The licensee's contingency plan should be available for immediate implementation prior to the expiration of the current contract period, and NRC assessment of that plan should provide confidence of successful implementation, if the plan is required.

Regional staff will monitor and update contract dates for, at least, security personnel, operators, chemistry staff, maintenance personnel, and radiation protection staff. Regional management and the resident inspector staff, as appropriate, will determine the need to implement this procedure.

The general requirements of 10 CFR associated with security, emergency situations, and operator training and qualification apply to the strike/lockout situation. The primary guidance available should be in the licensee's emergency and contingency plans.

### Specific Guidance

03.01 The licensee's approved strike/lockout provisions are required to be incorporated into the site emergency and safeguards contingency plans. To evaluate the licensee's strike/lockout contingency planning, discuss with licensee management the overall impact of the strike/lockout, including the number and job classifications of potential strikers. Discuss with licensee management the training and qualification process for personnel who will be performing duties they are not normally assigned. The inspector should keep abreast of any contingency plan changes or contingency plans that are approved by the licensee prior to or during the strike/lockout. The inspector should keep regional management informed of contingency plans which are not updated in accordance with the current policies and procedures and which do not meet all of the requirements outlined in 02.01 through 02.10 of this inspection procedure.

03.02 If the strike/lockout involves security staff at a power reactor site, the inspector should evaluate changes to the licensee's safeguards contingency plan that have not been reviewed by the NRC. Physical security inspectors should lead the review of strike contingency plans involving security staffing. At a power reactor site, resident inspector staff will monitor possible changes to these plans and coordinate with the physical security inspectors regarding the need for compensatory measures on a daily basis. Resident inspectors should also inform regional management of any changes and/or adverse conditions, and assist security inspectors in assessing the impact.

Non-power reactors having formula quantities of special nuclear material (SNM) are required to implement 10 CFR Part 73 safeguards contingency strike/lockout provisions only when the SNM (i.e. fuel) becomes non-self-protecting.

03.03 When evaluating shift staffing, the inspector should determine whether the licensee has made appropriate provisions to maintain site coverage for licensed operators, and workers in the areas of radiation protection, chemistry, and engineering. Nuclear power plant licensed operator control room staffing is discussed in 10 CFR 50.54(m). The inspector should verify that the licensee has appropriately conducted requalification training as needed, while ensuring that work hours remain within the fitness-for-duty requirements outlined in 10 CFR 26. The inspector should reference IP 93002, "Managing Fatigue," for additional guidance associated with work hour requirements. Non-power reactor staffing requirements are contained in the facility's technical specifications. Fuel facility staffing requirements are contained in the approved license application.

03.04 Specific requirements are found in the facility's technical specifications and license, and in the Code of Federal Regulations. Licensee commitments may also be found in the final safety analysis report (FSAR).

03.05 The portion of the licensee's strike/lockout contingency plans addressing the pre-strike/lockout stage should allow sufficient time for licensed and non-licensed personnel to become proficient in the positions that they will fill during the strike/lockout. The inspector should use caution, and limit the length of any discussions held with shift personnel so as not to distract them from their duties.

- a. Licensed operators and senior operators must maintain their license in an active status as specified in 10 CFR 55.53, "Conditions of Licenses." Activities addressed in 10 CFR 50.54, (i) through (m) must be performed by operators licensed under 10 CFR 55.
- b. Fuel facility personnel should be proficient in conversion processes, recovery processes, criticality controls, material controls, accounting controls and other operations applicable to the facility.
- c. It is recommended that inspectors observe just-in-time training scenarios for newly configured crews on a plant-referenced simulator to verify that individuals are proficient in their new roles. Inspectors should observe a minimum of one scenario.

03.06. Prior to the strike/lockout, perform the following:

- a. The inspectors should review and understand the process used by the licensee to train non-licensed personnel who will be performing functions they are not normally assigned.
- b. For personnel in the following non-licensed areas, inspectors should gather and review a range of one to three training records per area and verify these personnel have been trained in accordance with licensee programs: Fire Brigade, Chemistry Technician, Health Physics, Maintenance, Security, and Auxiliary Operator.
- c. To evaluate the effectiveness of site security, the physical security inspectors should inspect security station manning and proper implementation of any security compensatory measures. The inspectors should discuss with plant management any previous and potential safeguards threats and the plans to counter these threats.

03.07 The principal offsite support agencies to be contacted by the licensee should include the following:

- a. State police.
- b. Local law enforcement agency (LLEA).
- c. Local fire department and ambulance service (if separate).
- d. Local hospitals.
- e. State radiological health agency

- f. Fuel oil suppliers (inspectors should verify that the licensee has confirmed that drivers/suppliers will cross picket lines. If drivers/suppliers will not cross picket lines, then inspectors should verify that other arrangements for obtaining fuel oil are available and appropriate).
- g. All other suppliers, e.g., food vendors or compressed gas/chemical deliveries. (inspectors should verify that the licensee has confirmed that drivers/suppliers will cross picket lines. If drivers/suppliers will not cross picket lines, then inspectors should verify that other arrangements for getting supplies are available and appropriate.)

The LLEA should be prepared to deal with adverse conditions created by aggressive strikers. Arrangements should have been made between the licensee and the LLEA to resolve predictable legal or jurisdictional problems.

The inspectors' vehicles should be well marked and identified to the LLEA and union pickets to allow for ease of access to the plant. Inspectors should follow regional instructions regarding use of vehicles at a strike location. Such guidance should include use of government vehicles and unique labeling for resident inspector staff privately-owned vehicles to ensure that LLEA and pickets recognize NRC employees. Out-of-state license plates have been used to identify temporary replacement staff who have been subjected to harassment by picketers.

The inspector should establish a point-of-contact with site union officials to discuss overall issues and NRC concerns, i.e., unfettered site access. NRC personnel should develop a plan covering what actions should be taken when access to the site has been impeded or personal safety has been threatened by picketers. This plan should be briefed to appropriate staff. If the inspector has noted any difficulty with site access, regional management should be immediately informed. As determined by NRC management, the inspector or NRC manager should contact the site union official and clarify expectations regarding NRC access to the facility, including the use of LLEA escort, if appropriate. The inspector in no way should engage in negotiations between the union and licensee or act as a mediator.

Inspectors should verify that the licensee has a process in place to inform licensee personnel on what actions should be taken in the event that their access to the site has been impeded or that personal safety has been threatened.

03.08 Any changes to emergency response organization (ERO) compliment, by position number, or response time to staff emergency response facilities, should be compared to the licensee's emergency plan and the licensee's staffing analysis (required by Part 50, Appendix E, Section IV.A.9) to verify that the licensee will continue to maintain the effectiveness of the emergency plan as required by 10 CFR 50.54(q)(2). Resident inspectors should contact regional EP inspectors for guidance in assessing such changes.

The inspectors should review the process used by the licensee to qualify personnel for their ERO positions during a strike/lockout and verify that it was conducted in accordance with licensee emergency plan requirements.

03.09 Emergency communication equipment may include telephones, radios, radiotelephones, and walkie-talkies.

03.10 The employee concerns program coordinator or site ombudsman should have a system that accounts for the number of open cases and allegations that will determine whether there is an adverse **effect** on the safety conscious work environment at a site. Additionally, inspectors should refer to IP 71152, "Problem Identification and Resolution," for guidance on reviewing the safety conscious work environment at a site and on determining whether supplemental inspection activities are necessary.

#### 92709-04 RESOURCE ESTIMATE

This inspection procedure requires approximately 70-100 hours to complete. If required, an additional inspector should assist the resident inspector staff with review of strike/lockout preparations or baseline inspection activities. Physical security inspectors should lead for strikes/lockouts involving security staff and regional specialist should assist as needed in the review of contingency plans whenever licensed staff or ERO members are involved to ensure that sufficient personnel are available to meet license requirements. The resident inspector can take credit for baseline inspection activities when performing this procedure. If it is anticipated that the strike/lockout will be extended, support resources should be identified and, if possible, a site coverage schedule developed in advance of the strike/lockout.

#### 92709-05 REFERENCES

10 CFR 26.205

10 CFR 40.31

10 CFR 50.34

10 CFR 50.47

10 CFR 50.54

10 CFR 50, Appendix E

10 CFR 55.31

10 CFR 55.53

10 CFR 60.160

10 CFR 70.22

10 CFR 73, Appendix C

IP 71152, "Problem Identification and Resolution"

IP 93002, "Managing Fatigue"

RG 5.73, "Fatigue Management for Nuclear Power Plant Personnel"

NEI 06-11, "Managing Personnel Fatigue at Nuclear Power Sites"

Technical Specifications

92709-06      PROCEDURE COMPLETION

Meeting the inspection objectives defined in section 92709-01 of this inspection procedure will constitute completion of this procedure.

END

Attachment 1: Revision History page

Attachment 1 - Revision History for IP 92709

Commitment Tracking Number	Accession Number Issue Date Change Notice	Description of Change	Description of Training Required and Completion Date	Comment Resolution and Closed Feedback Form Accession Number (Pre-Decisional, Non-Public Information)
	08/21/92	Revised to incorporate inspection requirements from IP 92710, update the procedure and format, and incorporate minor editorial changes to improve procedure applicability for use at a non-power reactor and fuel facilities.		
	ML050910418 03/30/05 CN 05-009	Revised to improve the review of various areas not specified in the procedure and to establish communication links previously not specified.		
N/A	ML12136A174 03/14/14 CN 14-007	Revised to capture lessons learned from licensee strikes in Region I.	None	FBF 92709-1442 ML14071A186 ML14071A192 FBF 92709-1729 ML13310A788

Commitment Tracking Number	Accession Number Issue Date Change Notice	Description of Change	Description of Training Required and Completion Date	Comment Resolution and Closed Feedback Form Accession Number (Pre-Decisional, Non-Public Information)
NA	ML19086A278 05/16/19 CN 19-015	Periodic review of procedure. Responsible branch reassigned to reflect current responsibilities and minor grammatical edits to clarify inspection area. No substantive revision to this procedure was warranted at this time.	None	FBF 92709-2204 ML19112A060