

Rapid Resolution of Questions that Might Arise During Nonchallenge Visits

December 1997

If, in the course of a nonchallenge visit to a declared facility, evidence should arise that the facility's declaration may contain serious inaccuracies, the question will need to be pursued in some manner. A subsequent request for a formal investigation would be possible, but, to be effective, action should be taken before the visiting team leaves the facility. Immediate resolution would also best serve the interests of legitimate facilities. They must, however, be protected from any intrusion that is not warranted.

Under circumstances in which the host is reluctant to permit further examination of a question that has arisen, the following mechanism could be invoked:

Relevant samples, materials, records, facility areas, etc. would be placed under lock and/or guarded by the visiting team and facility employees, as appropriate, without examining them;

The team would prepare a brief statement for the Director-General and the Executive Committee detailing the evidence and the measures needed to pursue the question. The host facility could provide a statement explaining its disagreement.

Within 24 hours, the Director-General, alone if agreeable to the host, or supported by a vote of the Executive Committee, would decide (in consultation with technical advisors, if necessary) whether or not to authorize specific onsite activities by the team or, possibly, to issue a new and broader mandate to the team. Possible augmentation of the team would also be considered.

If the team were so authorized, specific onsite measures, including analysis of any previously -taken samples and other relevant sampling and analysis, would proceed, subject to the principles of managed access; the host would always have the right to propose alternate means for resolving the matter.

If authorization were denied, full custody of the locked or guarded items would revert to the facility, the mandate of the visit would remain unchanged, and the team would conduct no exceptional onsite activities.

Strict confidentiality would be maintained within the Organization and the Executive Committee until the visit report had been filed, in order to prevent any information about the process from reaching the public without the facility's permission.

This mechanism would make it possible to resolve questions arising during a nonchallenge visit without necessitating a challenge inspection, which would carry with it a heavy weight of suspicion and would likely be still more intrusive.

Undeserved harmful publicity to a legitimate facility would be avoided. The mechanism

would minimize the potential for abusive "fishing expeditions" by requiring evidence and external review before a visiting team could exceed its original mandate.

The proposed mechanism would permit sampling and analysis and other measures to go forward, when warranted. The compliance regime will be seriously weakened if this is not possible. Although the need for this mechanism will arise rarely in nonchallenge visits, its availability would increase transparency, encourage accurate declaration, and strengthen deterrence.