

SIGNIFICANCE AND ENFORCEMENT REVIEW PROCESS

1. SCOPE

This Attachment describes the guidance for the preparation and processing of findings determined by the Significance Determination Process (SDP) analysis to be potentially safety significant (white, yellow, or red.) Because enforcement decisions are integrated into this process, this guidance includes enforcement-related information for clarity and convenience.

The Commission's enforcement policy, General Statement of Policy and Procedure for NRC Enforcement Actions, NUREG 1600, and as implemented by the NRC Enforcement Manual, and Enforcement Guidance Memoranda remain the governing documents for enforcement-related activities. Current enforcement guidance is maintained on the Office of Enforcement's (OE's) web site www.nrc.gov/what-we-do/regulatory/enforcement.html

2. SIGNIFICANCE DETERMINATION PROCESS/ENFORCEMENT REVIEW PANEL - SERP

The SERP provides a management review of the preliminary, and when necessary base on the result of Regulatory Conference, final significance characterization and basis of findings potentially greater than Green and related apparent violations. No official agency preliminary significance determination of greater than Green will be made without a SERP review. During the SERP, panel members will discuss the finding(s) and reach consensus on:

- the statement of deficient licensee performance on which the inspection finding is based,
- the significance of the finding including assignment of preliminary or final color,
- the apparent violations and the requirements that should be cited.

The SERP may also determine that further information and/or analysis, or re- SERP is needed prior to officially issuing a significance determination.

a. Preparation for the SERP

When an inspection finding, using the SDP Phase 2 worksheets, has the potential to be evaluated as more significant than Green, the responsible inspector shall clearly establish the licensee performance deficiency and characterize the finding(s). Using the applicable Appendix in this chapter the inspector will substantiate that the proposed preliminary color for the finding is greater than Green.

For the risk-informed SDPs, an SRA or other NRC risk analyst should provide an independent confirmatory verification of the inspector's Phase 2 risk evaluation using the plant specific Revision 3, Standardized Plant Analysis Risk (SPAR) model and/or the licensee risk information. The SRA may also request support

from NRR risk analysts regarding the Phase 2 risk informed inspection notebook (hereafter referred to as the notebook) technical adequacy and on its implementation guidelines. The Phase 2 results that are supported by the SRA's verification will be presented at the SERP.

When the verification by the SRA does not support the Phase 2 results a Phase 3 analysis should be performed before the SERP by an SRA, or upon request, by a headquarters-based risk analyst.

The SRA or risk analyst implementing the SDP should solicit comments on the results of the process from at least one other agency SRA or risk analyst. Such comments and supporting rationale should be documented in the SERP information package.

Using the outline provided in Exhibit 4 the Sponsor Region will assemble a package of documents that will provide the SERP members a clear understanding of the preliminary or final significance of the finding and its basis.

b. Participation in SERP

Each member of the SERP will represent the views of their organization/office. SERP members may request that technical specialists, risk analysts and SRAs be available at the SERP for consultation on issues. The principal objective of the SERP is to arrive at a consensus regarding the significance determination(s) and its basis. As applicable, this will be followed by OE approval on the proposed enforcement action associated with the finding(s). Participation in SERPs should be in accordance with the following guidelines:

Role	Responsible Organization/Participant
<p>Sponsor</p> <p>Holds overall responsibility for issue resolution including assuring appropriate SDP results and achieving SDP timeliness milestones; leads the meeting in accordance with the guidelines of this IMC and the Enforcement Manual. Also leads the presentation of the finding.</p>	<p>Regional management representation at the Division Director or Deputy Division Director level.</p>

<p>Technical Spokesperson</p> <p>Provides headquarters technical position and is the NRR authority on the SDP being used. Also responsible for ensuring that outcomes are consistent with program office guidelines (e.g. application of risk insights) and regulatory policy.</p>	<p>NRR Probabilistic Safety Assessment Office Branch (for fire protection, reactor safety, containment, shutdown risk) Branch Chief (or designee);</p> <p>Equipment and Human Performance Branch (emergency planning, operator re-qualification, transportation, ALARA, occupational radiation SDPs) Branch Chief (or designee);</p> <p>Division of Nuclear Security (physical protection SDP) Section Chief.</p>
<p>Program Spokesperson</p> <p>Inspection Program Management Representation, ensures implementation of SERP and outcome are consistent with ROP policy. Resolves ROP program issues.</p>	<p>NRR Inspection Program Branch, Branch Chief (or designee).</p>
<p>Enforcement Spokesperson</p> <p>Responsible for determining the adequacy of NOV(s) related to the inspection findings greater than Green; and ensures the agreements reached at the SERP are documented on the Strategy Form in accordance with Office of Enforcement policies.</p>	<p>Headquarters Office of Enforcement, Deputy Director (or designee).</p>

Other invited participants may include the NRR Project Manager, Regional Enforcement Coordinator, Office of Nuclear Regulatory Research (RES) representative for Accident Sequence Precursor analysis (ASP) related issues, Office of the General Counsel and others as applicable. SERP members can also request participation in the SERP by inspectors, SRAs, risk analysts, and technical specialists involved in the development of the significance of the finding.

The NRR Enforcement Coordinator will arrange for support/participation by the appropriate technical and project management staff.

c. Planning for the SERP

SERPs typically are conducted to coincide with enforcement cases on a regular weekly conference call. To schedule a SERP, the region should notify the NRR Enforcement Coordinator and OE at least one week before the desired date. The NRR enforcement coordinator will verify the availability of NRR SERP members and facilitate scheduling the SERP.

At least three working days (sooner for more complex issues) prior to the meeting of the SERP the regions will provide, through the NRR Enforcement Coordinator, briefing materials organized per Exhibit 4, and other pertinent information to all SERP participants. For reactor safety issues the distribution of briefing materials shall include the Operating Experience Risk Analysis Branch (OERAB) of RES.

d. SERP Results.

- (1) If the SERP concludes that the significance determination of the finding is Green, or minor, or the SERP determines that the criteria for a finding was not met, the SERP's conclusion regarding enforcement (no violation or NCV) will be documented by OE on the Strategy Form. OE will then send the Strategy Form to the SERP members for concurrence. The regions will then complete the appropriate inspection documentation without additional review by NRR or OE.
- (2) If the SERP reaches a consensus that the preliminary result of the significance determination associated with the finding is of greater significance than Green, the SERP's conclusion will be documented by OE on the Strategy Form. The region will issue a choice letter to the licensee using Exhibit 2 to this attachment, "Choice Letter Transmitting Preliminary White/Yellow/Red Finding". If the licensee agrees with the NRC's preliminary assessment of significance and the apparent violations and does not desire to submit a written response or to arrange a Conference than the preliminary assessment of significance becomes final, and the region will issue the final significance determination letter, using Exhibit 3 to this attachment "Cover Letter Transmitting Final White/Yellow/Red Finding and NOV". The cover letter should include the appropriate paragraph documenting the licensee's declination of a written response and Conference. See Section 4 for additional detail on preparing the final significance determination letter.
- (3) If the SERP cannot reach consensus on the preliminary or final significance of the finding(s) the SERP must either 1) direct specific actions to reconcile the different views; or 2) identify the appropriate agency manager to make a binding decision; or 3) immediately escalate the issue to the manager having the overall cognizance for the organizations having differing views. If resolution is not achieved within 14 calendar days, the Program Spokesperson, through the appropriate management, will notify the applicable Regional Administrator and the Director of NRR of the issues and the actions being taken to resolve them.
- (4) If, as a result of the SERP discussion, a substantive change is made to the preliminary significance determination or apparent violations, a re-exit

should be held with the licensee if deemed necessary by the Regional Sponsor.

e. Tracking SDP/Enforcement Issues

SDP findings are administratively tracked and filed through the use of the Office of Enforcement's Enforcement Action Tracking System (EATS). Enforcement Action (EA) numbers are assigned when findings have been discussed during in a SERP, regardless of whether the finding results in a violation. During or subsequent to a SERP, an OE Enforcement Specialist will assign an EA number to each case by completing the SDP/EA Request & Strategy Form (Strategy Form), included in Appendix E of the Enforcement Manual. The Strategy Form enables tracking of individual findings and any potential violations. Following the SERP, OE will send the completed Strategy Form to each SERP member for review. If additional related findings are identified subsequent to a SERP, additional SERP(s) would be conducted and separate EA tracking numbers assigned. If the findings are determined to be of very low significance (Green) or are determined not to be findings, the related EA number(s) should be closed to reflect final disposition and the Strategy Form should be updated to provide the basis for the final determination. Once an EA number has been assigned to a finding (and any related violations,) all subsequent documents involving the finding should include the complete EA number (EA-YY-XXX).

3. REGULATORY CONFERENCES

The choice letter discusses the staff's preliminary determination that the issue(s) are finding(s) of potential safety significance designated as white, yellow, or red, and offers the licensee an opportunity to participate in a Regulatory Conference.

a. Scheduling and Announcing Regulatory Conferences

Regulatory Conferences should normally be held within 30 days after the licensee received the choice letter.

- (1) The region should inform the licensee whether the Regulatory Conference will be open or closed to public observation and that any handouts at the Conference will subsequently be made available to the public, unless it meets the provisions of 10 CFR 2.790 (a)(4) or (6). The region should also ask whether the licensee will be submitting documentation in advance of the Conference (e.g., risk assessment). Although such a submittal is not required, if provided, it should be made through docketed correspondence at least one week in advance of the Conference in order to make the conference more efficient and effective.
- (2) The region should promptly notify OE, the NRR Enforcement Coordinator, the appropriate Regional State Liaison Officer, and the EDO Regional Coordinator of the conference date.
- (3) The region should issue a meeting notice in accordance with regional procedures and report all Conferences to the Public Meeting Announcement

System as described in NRC Management Directive 3.5, "Public Attendance at Certain Meetings Involving the NRC Staff." A copy of the Conference meeting notices should be sent to the NRR Enforcement Coordinator.

NOTE: If the finding involves an apparent violation it should also be posted on the OE web site. The region should include OEMAIL and OEWEB as addressees.

The meeting notice and meeting information should clearly indicate the predecisional nature of issues, e.g., "findings were preliminarily characterized by the NRC as having low to moderate increased importance to safety," and as "apparent violations." The notice should then state that the purpose of the conference is to discuss the preliminary safety significance of a particular finding. The discussion of the finding should be brief, but detailed enough to inform the public of what will be discussed at the conference. If appropriate, the notice should then include a statement that the conference will also address any apparent violations associated with the finding.

- (4) Conferences in which safeguards information will be discussed are closed in part or in total to public observation. For security reasons NRC staff should not participate by telephone or video in conferences where safeguards information will be discussed. If such participation becomes necessary, it should be done in accordance with Management Directive 12.4, "NRC Telecommunications System Security Program," and 12.6, "NRC Sensitive and Unclassified Information Security Program."
- (5) The region should work with OPA to determine whether to issue a press release announcing the conference.

b. Attendance at Regulatory Conferences.

This section provides specific guidance concerning attendance at Conferences including, NRC personnel, licensee personnel, media and members of the public, and State government personnel.

- (1) NRC Personnel. NRC personnel should attend Conferences according to the following guidelines:
 - (a) The responsible regional division director will designate the regional staff who should be in attendance. At the regional division director's discretion, and in accordance with security guidelines, NRC staff may participate in conferences by telephone or video.
 - (b) OE staff should participate in all conferences.
 - (c) NRR participation may be requested as deemed necessary.
 - (d) Regional Counsel may be requested to attend conferences where legal issues may be raised.

- (2) Media and Members of the Public. The public attending an open conference may observe but not participate in the conference. Members of the public may record (including videotape) a conference if that activity is not disruptive. The purpose of conducting conferences in the open is to provide the public with opportunities to be informed of NRC activities while balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. Following the Conference, the staff will be available to respond to questions and comments from members of the public concerning matters discussed at the Conference.
 - (3) State and Local Officials. When Conferences are open to the public, interested state and local officials should also be invited.
- c. Conduct of Regulatory Conferences. The conferences should be conducted according to the following guidelines:
- (1) Conferences are normally conducted in the regional offices. There may be special circumstances where the agency determines that it would be beneficial to the process to conduct the Conference elsewhere. In these cases, the region should consult with NRR and OE prior to scheduling the Conference.
 - (2) The Regional Administrator should determine the appropriate member of regional management to serve as the presiding official at the Conference.
 - (3) The presiding NRC official should (1) announce the Conference as an open or closed meeting, (2) discuss the purpose of the Conference, (3) inform the licensee and public attendees that the decision to hold the Conference does not mean that the agency has determined the significance of the issues, that violations have occurred or that enforcement action will be taken, (4) inform the public attendees that the Conference is a meeting between the NRC and the licensee and that the meeting is open for public observation but not participation, and (5) briefly explain the SDP/enforcement process. Exhibit 1 attached to this document provides standard opening remarks.
 - (4) The region should briefly discuss the findings being considered and explain the agency's basis for concern (e.g., safety significance and apparent violation). The level of detail to be discussed is related to the complexity and significance of the issues. Most of the detailed information should be included in the inspection report. The discussion should include the assumptions and methodology used by the NRC to arrive at the preliminary determination of risk significance.
 - (5) The licensee should also discuss its understanding of the facts and circumstances surrounding the significance of the findings and where it agrees and disagrees with the NRC's assumptions and analysis. Any issues of disagreement should be discussed in enough detail for the NRC to fully understand the licensee's new information. Once the pertinent facts have been established and understood by all parties the presiding official must recognize differences of opinion and keep the conference productive.

- (6) After completing discussions related to the safety significance of the findings, addressing any apparent violations and/or discussion of applicable corrective actions is appropriate. However, discussion of corrective actions should be limited to the immediate actions taken to mitigate safety consequences of the finding. Detailed discussions of long term corrective actions should be reserved for the Regulatory Performance meeting and for the follow-up inspection assessment. The licensee should indicate their agreement or explain why they do not agree with the apparent violation.
 - (7) Prior to the conclusion of the conference the participating NRC staff should confer, independent from the licensee and other participants, to determine the need for additional information.
 - (8) The region should provide closing remarks and the presiding NRC official should remind the licensee and public attendees that the preliminary significance determination and apparent violations discussed are subject to further review and are subject to change prior to any resulting action. The region should also make it clear that the statements of views or expressions of opinion made by NRC employees at the conference, or the lack thereof, are not final conclusions.
- d. Caucus. Subsequent to a Regulatory Conference, a caucus should be held by the Regional Sponsor to review and critique the information provided by the licensee and to develop a recommendation on the course of action the NRC should follow based on that information. The staff who participated in the Regulatory Conference should also participate in the caucus. Based on the caucus the Regional Sponsor provides a recommendation to the appropriate NRR Branch Chiefs on the significance determination and enforcement.

Caucus Outcome/Determine Final NRC Position.

The caucus will consider:

- the reasonableness of the risk analysis or other information provided by the licensee and whether new information or perspectives were obtained warranting reconsideration of the preliminary safety significance of the finding.
 - the enforcement strategy, to determine whether it remains valid or should be changed,
 - whether additional review of information provided by the licensee is necessary before a decision on a course of action can be made,
 - whether additional information is necessary.
- (1) If the staff concludes that the licensee did not present additional information that will change the risk significance of the finding, the region should prepare a final determination letter that will affirm the

significance determination of the SERP, and issue an NOV as appropriate.

- (2) If the caucus participants conclude that the licensee presented sufficient information that changes the significance of the finding(s), or substantially changes its basis, and no additional review and evaluation of licensee information is necessary, the region should prepare a new information package per Exhibit 4, and the region should schedule another SERP.
- (3) If the caucus participants conclude that the licensee provided new information that requires additional agency review to make a final SDP/enforcement decision, the region should coordinate completing the assessment of the new material. If this assessment result in a change to the preliminary significance determination the region should prepare a new information package and schedule another SERP in accordance with Section 2 of this document. If the new assessment concludes that no change is warranted, the region should prepare a new information package per Exhibit 4, and the region should schedule another SERP.

4. FINAL SIGNIFICANCE DETERMINATION (AND NOTICE OF VIOLATION (NOV) IF APPLICABLE)

- a. Final Significance Determination Letter and NOV. Cover letters that transmit final assessment results should be prepared by the region using the standard format in Exhibit 3 to the attachment. Although the format includes additional language if an NOV is included, the staff should ensure that it remains consistent with the guidance included in the Enforcement Manual. The letter should effectively and succinctly communicate the NRC safety significance assessment of the issues and any related violations and should include the following elements:

- (1) A summary of: 1) the purpose of the inspection; 2) if and how the issue was reported, e.g., 50.72, LER etc; 3) when the inspection report(s) related to this action were issued; and 4) if and when (and where) a Conference was held, if a conference was declined, or if there was a response to a choice letter.
- (2) A conclusion that the finding represented an issue of safety significance and that a violation(s) occurred (if applicable). A very brief summary of the event or circumstances that resulted in the finding and/or violation including such issues as, the length of time the issue lasted, the apparent root cause, the operational mode of the plant at the time.
- (3) Justification for not incorporating into the significance determination licensee perspectives presented at the Conference.
- (4) A statement that the licensee may appeal the staff's determination of the significance of the finding in accordance with Attachment 2 of MC 0609.
- (5) A discussion of the related violation(s).

- (6) If an NOV is included, a description of whether a response from the licensee is necessary, including any area that deserves special emphasis, such as a provision that the licensee respond if its understanding of the required corrective action is different than that stated.
 - (7) A statement that the letter and the licensee's response will be made available to the public.
- b. Final Significance Determination and NOV, Coordination and Review. All Final Significance Determination letters for yellow and red issues shall be sent to the applicable headquarters Branch Chiefs identified in Section 2.b., OE, and Regional Sponsor for review prior to issuance. The SERP will determine if letters transmitting white issues need HQ review on a case-by-case basis. Headquarters personnel will provide comments to the regions within two days of the receipt of the letters. This communication will be conducted by e-mail.
- (1) NRR Enforcement Coordinator will ensure appropriate review of the proposed action by appropriate risk, program and technical branch(s) with a focus on the proper characterization of the safety significance of the issues and on the technical accuracy of the violations.
 - (2) OE will review final significance determinations if they include an NOV and will forward comments to the region indicating where the action was revised and explain any significant changes. (Refer to the Enforcement Manual for specific guidance on coordination and review of escalated NOV's without civil penalties.)
- c. Final Significance Determination and NOV Signature Authority. Final Significance Determination cover letters associated with white, yellow, or red issues should be signed and issued according to the following guidelines:
- (1) The Regional Administrator or his deputy normally signs and issues final significance determination cover letters associated with yellow, or red findings.
 - (2) The Regional Administrator or his deputy may delegate the authority to sign and issue final significance determination cover letters associated with yellow findings.
 - (3) Regional Division Directors are normally expected to sign and issue final significance determination cover letters associated with white findings.
- d. Licensee Notification, Mailing, & Distribution of Final Significance Determination Letters. Final significance determination letters are normally mailed to licensees and States by regular mail. NRC distribution should be made according to the NOV distribution lists in the Enforcement Manual and regional procedures.

Exhibit 1

OPENING COMMENTS FOR REGULATORY CONFERENCE

After a potentially safety significant finding is identified and characterized by the Significance Determination Process (SDP) analysis as white or greater, an opportunity for a Regulatory Conference is offered to a licensee. In this case, the licensee requested that a Conference be held to discuss the issues and their significance.

This Conference is OPEN to public observation. For members of the public who are in attendance at this meeting, you should be aware that this is a meeting between the Nuclear Regulatory Commission and licensee. The NRC has opened this meeting for public observation. Following the Conference, NRC staff will be available to answer questions and receive comments from members of the public concerning matters discussed at this Conference.

A Regulatory Conference is the last step of the inspection process before the staff makes its final decision on the significance of the inspection findings. (Using the subject finding provide a brief summary of the SDP and how the process led to the Conference)

The purpose of this Conference is to allow you to identify your disagreements, in part or all, with facts and assumptions used by the NRC to make the preliminary significance determination, and for you to present new information that may assist the NRC's in arriving at the most appropriate final significance determination.

We would also appreciate your views as to whether there is any other information that may be relevant to the application of significance determination in this case, including your position on the content and accuracy of the inspection report findings which were provided to you in advance of this Conference.

In addition to discussing your views on the safety significance of the findings, you may want to present your views on the identified apparent violations. Please note that the identified apparent violations related to the findings are subject to further review and they may be subject to change prior to the issuance of the final determination letter. It is important to note that the decision to conduct this Conference does not mean that the NRC has determined that a violation has occurred. Violations related to the findings being discussed today will be assessed in accordance with the Commission's Enforcement Policy.

I should also note at this time that any statements of view or expressions of opinion made by NRC employees at this Conference, or the lack thereof, are not intended to represent final agency determinations or beliefs relative to the matter before us today.

Following this Conference, the Regional and NRC Headquarters staff, will reach a significance determination and enforcement decision.

If you have any questions now or at any time during this Conference, we would be pleased to answer them.

Exhibit 2

“CHOICE LETTER” TRANSMITTING PRELIMINARY WHITE/YELLOW/RED FINDING

EA-YY-XXX

Name of Licensee

Licensee Address

SUBJECT: NRC (Inspection Type) INSPECTION REPORT DOCKET/YYNNN;
PRELIMINARY WHITE/YELLOW/RED FINDING
(name of facility)

Dear :

(Refer to IMC 0612 for guidance related to the overall structure of the cover letter and content of introductory paragraphs.)

This report discusses finding(s) that appears to have (for White - low to moderate; for Yellow - substantial; for Red - high,) safety significance. As described in Section XXX.X of this report, (include a more detailed description of the finding(s)) this finding was assessed using the applicable significance determination process and was preliminarily determined to be (White, Yellow, Red) i.e., (white) a finding with some increased importance to safety, which may require additional NRC inspection; (yellow) a finding with substantial importance to safety that will result on additional NRC inspection and potentially other NRC action; (red) a finding of high importance to safety that will result in increased NRC inspection and other NRC action. The finding has a low to moderate, substantial, high safety significance because (describe the main reason the issue resulting in a White, Yellow or Red finding under the SDP, including most risk significant scenario and duration of the condition).

(Where applicable please describe the licensee’s compensatory measure taken while long term corrective action is being implemented.)

(If a violation(s) is associated with the finding include:) The finding is also an apparent violation of NRC requirements and is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. [Include either: “(enclosed)” or “The current Enforcement Policy is included on the NRC’s website at www.nrc.gov/OE”].

We believe that sufficient information was considered to make a preliminary significance determination. However, before we make a final decision on this matter, we are providing you an opportunity to present to the NRC your perspectives on the facts and assumptions, used by the NRC to arrive at the finding and its significance, at a Regulatory Conference or through the submittal to the NRC your position on the finding in writing. If you choose to request a Regulatory Conference, it should be held within 30 days of the receipt of this letter and we encourage you to submit supporting documentation at least one week prior to the conference in an effort to make the conference more efficient and effective. If a Regulatory Conference is held, it will be open for public observation. If you decide to submit only a written response, such submittal should be sent to the NRC within 30 days of the receipt of this letter.

Please contact (name) at (phone number) within 10 business days of the date of this receipt of this letter to notify the NRC of your intentions. If we have not heard from you within 10 days, we will continue with our significance determination and enforcement decision and you will be advised by separate correspondence of the results of our deliberations on this matter.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for these inspection findings at this time. In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at XXXXXXXXXXXXX(the Public Electronic Reading Room).

Sincerely,

Division Director

Exhibit 3

COVER LETTER TRANSMITTING FINAL WHITE/YELLOW/RED FINDING (and NOV, if applicable)

EA-YY-XXX

Licensee Address

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A (WHITE, YELLOW, RED) FINDING(if applicable, add: "AND NOTICE OF VIOLATION")
(NRC Inspection Report No(s). XX-XXX/YY-NN)
(include name of facility)

Dear (Licensee Official):

(Refer to IMC 0610 for guidance related to the overall structure of the cover letter and content of introductory paragraphs.)

The purpose of this letter is to provide you with the final results of our significance determination of the preliminary (White, Yellow, Red) finding identified in the subject inspection report. Inspection finding(s) were assessed using the significance determination process and were preliminarily characterized as (White, Yellow, Red), (i.e., a finding with low to moderate increased importance to safety, which may require additional NRC inspections; a finding with substantial importance to safety that will result in additional NRC inspection and potentially other NRC action; (red) a finding of high importance to safety that will result in increased NRC inspection and other NRC action). This (White, Yellow/Red) finding involved (describe the findings).

[For declination of a regulatory conference, include the following paragraph:]

In a telephone conversation with Mr. ____ of NRC, Region X, on Date, (responsible Licensee) of your staff indicated that (Licensee) did not contest the characterization of the risk significance of this finding and that you declined your opportunity to discuss this issue in a Regulatory Conference.

[For regulatory conferences, include the following paragraph:]

At your request, a Regulatory Conference was held on (Date), to further discuss your views on this issue. (A copy of the handout you provided at this meeting is attached.) During the meeting your staff described your assessment of the significance of the findings, detailed corrective actions, including the root cause evaluations for the event classification issues. Specifically, (provide additional details of the licensee assessment and a point by point discussion and justification for not accepting the licensee perspectives presented at the conference).

After considering the information developed during the inspection (if applicable, add: “the additional information you provided in your letter dated (date), and the information you provided at the conference”), the NRC has concluded that the inspection finding is appropriately characterized as (White, Yellow, Red), (i.e., an issue with low to moderate increased importance to safety, which may require additional NRC inspections; an issue with substantial importance to safety that will result on additional NRC inspection and potentially other NRC action; an issue of high importance to safety that will result in increased NRC inspection and other NRC action).

You have 30 calendar days from the date of this letter to appeal the staff’s determination of significance for the identified [white/yellow/red] finding[s]. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC has also determined that (describe the violation) is a violation of (list the requirement), as cited in the attached Notice of Violation (Notice). The circumstances surrounding the violation are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, NUREG-1600, the Notice of Violation is considered escalated enforcement action because it is associated with a (White, Yellow, Red) finding.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response.

Because plant performance for this issue has been determined to be in the regulatory response band, we will use the NRC Action Matrix, to determine the most appropriate NRC response for this event. We will notify you, by separate correspondence, of that determination.

In accordance with 10 CFR 2.790 of the NRC’s “Rules of Practice,” a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC’s document system (ADAMS). ADAMS is accessible from the NRC Web site at +XXXXXXXXXXXXXXXXXXXXX(the Public Electronic Reading Room).

Sincerely,

Regional Administrator or designee

Exhibit 4

SERP Worksheet for SDP-Related Findings

SERP Date:

Cornerstone Affected and Proposed Preliminary Results :

Licensee:

Facility/Location:

Docket No(s):

License No:

Inspection Report No:

Date of Exit Meeting:

Issue Sponsor:

Meeting Members:

Issue Sponsor :
Technical Spokesperson(s) :
Program Spokesperson :
OE Representative :

A. Brief Description of Issue

B. Statement of the Performance Deficiency

C. Significance Determination Basis

1. Reactor Inspection for IE, MS, B cornerstones

a. Phase 1 screening logic, results and assumptions

b. Phase 2 Risk Evaluation (when applicable)

List dominant affected accident sequences by initiator, in order of contribution, and each sequence's numerical contribution

List any pertinent assumptions under each initiator group

(A risk analyst should review and verify that Phase 2 process was followed correctly and that the results are reasonable.)

Attach applicable Phase 2 Worksheets

List any confirmatory checks made using licensee risk information, SPAR model results, or other source of risk insights.

Note any differences and an evaluation of their effect on this determination.

c. Phase 3 Analysis (if necessary)

Concisely address each of the analysis aspects that follow.

PRA tools used:

Affected sequences:

Influential assumptions:

Sensitivity of results to each influential assumption:

Contributions of greatest uncertainty factors and impact on assumptions:

Previous similar analyses if applicable):

Proposed preliminary or final color:

2. All Other Inspection Findings (not IE, MS, B cornerstones)

Flowchart logic and full justification of assumptions used

Proposed preliminary/final color

D. Proposed Enforcement.

a. Regulatory requirement not met.

b. Proposed citation.

c. Historical precedent.

E. Determination of Follow-up Review (as needed)

For White findings propose whether HQs (NRR and/or OE) should review final determination letter before issuance. (For greater than White findings review and concurrence by NRR and OE is required as discussed in Section 4b.)

Exhibit 5

Suggested SDP Milestones to Meet Timeliness Criteria

The Agency's goal for SDP/enforcement timeliness is that all (i.e., 100 percent) significance determinations be completed within 120 days of the first exit meeting and within 90 days of the first official inspection report issue date.

To - Exit meeting with licensee during which the proposed finding is first discussed.

To + 30 - Issue inspection report (To + 45 for team inspections)

To + 60 - Choice letter issued based on the SERP.

To + 70 - Licensee responds to choice letter

To + 100 - Regulatory Conference

To + 120 - Final letter issued