

H. Beach Caucus (EA-02-031)
Rad/1 vid (2 reqts)

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(b) Loss of confidence in the licensee's ability to maintain and operate the facility in accordance with the design basis (e.g., multiple safety significant examples where the facility was determined to be outside of its design basis, either due to inappropriate modifications, the unavailability of design basis information, inadequate configuration management, or the demonstrated lack of an effective problem identification and resolution program).

(c) A pattern of failure of licensee management controls to effectively address previous significant concerns to prevent the recurrence.

From Mc 0305

Note: If the agency determines that a licensee's performance is unacceptable then a shutdown order will be issued.

06.06 Additional
Action Matrix Guidance

a. Treatment of old design issues in the assessment process. The NRC may refrain from considering safety significant inspection findings in the assessment program for a finding in the engineering calculations or analysis, associated operating procedure, or installation of plant equipment that meets all of the following criteria:

1. It was licensee-identified as a result of a voluntary initiative such as a design basis reconstitution. For the purposes of this manual chapter, self-revealing issues are not considered to be licensee-identified. Self-revealing issues are those deficiencies which reveal themselves to either the NRC or licensee through a change in process, capability or functionality of equipment, or operations or programs.
2. It was or will be corrected, including immediate corrective action and long term comprehensive corrective action to prevent recurrence, within a reasonable time following identification (this action should involve expanding the initiative, as necessary, to identify other failures caused by similar root causes).
3. It was not likely to be identified by routine licensee efforts such as normal surveillance or quality assurance activities.
4. The finding does not reflect a current performance deficiency associated with existing licensee programs, policy, or procedure.

The finding would be brought to a Significance and Enforcement Review Panel (SERP) and a Regulatory Conference, if applicable. The finding would be discussed in the appropriate assessment letter and displayed on the NRC's web site with its actual safety significance. The assessment letter should state that the finding is being considered for treatment as an old design issue pending the

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completion of the supplemental inspection. The regional office would conduct the appropriate follow-up supplemental inspection to determine if the conditions for treatment as an old design issue is warranted. As stated in the supplemental inspection procedures, the regional offices may take credit for previous inspection effort in completing the requirements of the procedure. If all of these conditions were met, the finding would not aggregate in the Action Matrix for the purpose of determining the appropriate level of agency response. This determination should be discussed at the supplemental inspection procedure exit meeting and documented in the inspection report cover letter.

The purpose of this approach is to place a premium on licensees initiating efforts to identify and correct safety-significant issues that are not likely to be identified by routine efforts before degraded safety systems are called upon to work. The assessment program evaluates current performance issues and this approach excludes old design issues from consideration of overall licensee performance in the Action Matrix. The DRP or DRS Division Director will authorize this option with the concurrence of the Inspection Program Branch Chief. This is not considered a deviation from the Action Matrix in accordance with section 06.06.f of this manual chapter.

- b. "Double-Counting" of performance indicators and inspection findings. Some issues may result in simultaneously crossing a performance indicator threshold and generating a safety significant inspection finding. This would result in two assessment inputs combining to cause increased regulatory action per the Action Matrix. For example, two white assessment inputs in the mitigating systems cornerstone would result in increased regulatory action per the degraded cornerstone column of the Action Matrix.

Issues with the same underlying causes should not be "double-counted" in the assessment program. However, the most conservative significance characterization related to the performance indicator and the inspection finding (i.e., yellow vs. white) shall be used to determine the appropriate agency action according to the Action Matrix.

Another example may include an inoperability of a support system that causes a white inspection finding as well as several performance indicators to cross the green/white threshold. Because the SDP characterization of the finding pertains to the same underlying issue, this should be considered a single white issue within a cornerstone and not "double-counted" in the assessment program. These examples are not considered a deviation from the Action Matrix as defined in section 06.06.f of this manual chapter.

- c. Timeframe for "counting" inspection findings in the assessment program. The date used for consideration in the assessment program is the date of the end of the pertinent inspection period for the finding. After final determination of the significance of an inspection finding the regional office shall refer back to the appropriate date discussed above to determine if any additional action would have been taken had the significance of the inspection finding been known at that time.