

From: Charles R. Ogle *IRT*
To: Coe, Doug
Date: 1/28/03 10:11 AM
Subject: Fwd: Re: DRAFT INSPECTION PROCEDURE ON MANUAL ACTIONS

Doug, I know that Chuck Casto already provided a response to your e-mail, but I'd like to add my two cents worth.

1. I am concerned that the note to the DRS division directors and deputies contains ambiguous guidance regarding the purpose of the draft inspection guidance. I think that the difference between the two statements in the memo:

...is not yet officially approved guidance and should not be used as the basis for discussions with licensees.

and

...the draft inspection guidance is intended to encourage consistency in inspector judgement as to whether such manual actions are a reasonable interim compensatory measure

is subtle at best. Inspector judgement in this case will be the result of inspection of the manual actions. The inspectors will reasonably use the guidance presented to form that judgement and will need to be able to discuss their decision making process to licensees. Further, I think most inspectors and supervisors would have difficulty explaining the practical difference in terms of conducting inspections in these two statements. From a larger sense, I think that if inspectors are going to be asked to inspect an attribute of a licensee's program, then the criteria should be clear and available for the public and the licensee to review. I don't think that these two statements in the memo fit that bill. Also as an additional source of confusion, the draft inspection procedure contains guidance to use the guidance for all inspections conducted after November 2002.

2. I am also confused by the logic in the memo to the DRS division directors to be issued by John Hannon and Cynthia Carpenter. If I am reading the logic presented in the memo correctly, the licensee would be issued a URI based on whether or not the licensee claimed that the manual actions were part of their CLB and not on whether or not the manual actions would work. Per my read of the memo, it looks like whether or not the manual actions work only factors into the severity of the violation.

I thought that the staff was going to propose rulemaking to permit manual actions and in the interim was going to pursue a policy that minimized inspection and licensing action on manual actions that the inspections judged would work or were reasonable. If we start issuing NCVs on manual actions that work, some licensees may feel obliged to pursue licensing actions (exemptions/deviations) to restore compliance.

CC: Casto, Charles; Christensen, Harold

1/28

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