

## ATTACHMENT 0609.01

### SIGNIFICANCE AND ENFORCEMENT REVIEW PANEL PROCESS

#### 1. SCOPE

This Attachment describes NRC guidance for preparing and processing findings determined by the Significance Determination Process (SDP) to be potentially 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, 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 <http://www.nrc.gov/about-nrc/regulatory/enforcement/public-involvement.html>

#### 2. SIGNIFICANCE AND ENFORCEMENT REVIEW PANEL - (SERP)

The SERP provides a management review of the preliminary and, when necessary, based on the results of a Regulatory Conference or written response provided by the licensee, the final significance characterization and the basis of findings potentially White, Yellow, or Red, and the basis for related AVs. As defined in IMC 0612 an AV is an inspection finding which may or may not have regulatory requirements associated with it and is being reviewed by the senior reactor analyst because it may be potentially greater than Green in risk significance. No official agency preliminary significance determination of White, Yellow, Red, or greater than Green will be made without a SERP review. During the SERP, panel members will discuss the finding and reach consensus on:

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

By regional request, the SERP may also consider that further information and/or analysis is necessary before a finding can be evaluated taking into account that the SDP timeliness goal and associated metrics may not be met. In such instances, the SERP will be redesignated as a Planning SERP and it will reach consensus on the scope, schedule, and who is to perform the assessment (reference Section 08.05.b of IMC 0609 for more detailed guidance). An additional SERP will be required before the preliminary significance determination is issued.

In all cases, the regions are responsible for the overall management of inspection findings. Although some findings may be referred to other technical areas of the NRC, the regions must maintain full awareness of the status of those findings to ensure that the findings are dispositioned in a timely manner.

a. Preparation for the SERP

Applying the best available information, the responsible inspector shall clearly establish the licensee performance deficiency and characterize the finding as potentially greater than Green. Using the applicable SDP Appendix in this Manual Chapter and/or the plant specific Pre-solved Table, the inspector and the regional Senior Reactor Analyst (SRA) will determine the proposed preliminary color for the finding (White, Yellow, Red, or Greater Than Green).

For the risk-informed SDPs, a SRA or other NRC risk analyst should provide a review of the inspector's SDP Phase 2 risk evaluation using the best available information provided by the licensee and the plant specific Standardized Plant Analysis Risk (SPAR) model. This review must take into account the SDP timeliness goal. The SRA may request support from NRR risk analysts in verifying the technical adequacy of the plant specific Phase 2 risk-informed inspection notebook (hereafter referred to as the notebook) and Pre-solved Table. Once verified by the SRA's, the Phase 2 or SRA initiated Phase 3 results will be presented to the SERP.

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 Sponsoring 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 the related enforcement recommendations.

If the regional sponsor requests a Planning SERP to be convened, the regional sponsor must complete Exhibit 5, Planning SERP Worksheet, and schedule the Planning SERP meeting.

b. Participation in the SERP

Members of the SERP will represent their organization. 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 determinations and their basis and the appropriate enforcement actions to be taken, if applicable. 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 Manual Chapter and the Enforcement Manual. Also leads the presentation of the finding.</p>	<p>Regional management representation by the Division Director or Deputy Division Director</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. with respect to application of risk insights) and regulatory policy.</p>	<p>Applicable Technical Division</p> <p>NRR Division of Risk Assessment (for fire protection, reactor safety, containment, shutdown risk, steam generator, maintenance SDPs), Deputy Division Director (or Branch Chief);</p> <p>NRR Division of Inspection and Regional Support (for operator re-qualification, transportation, ALARA, occupational radiation SDPs), Deputy Division Director (or Branch Chief);</p> <p>Office of Nuclear Security and Incident Response, Division of Security Operations (physical protection SDPs), deputy division director or branch chief; Division of Preparedness and Response (emergency planning SDP), Deputy Director for Response or branch chief).</p>
<p>Inspection Program Spokesperson</p> <p>Provides inspection program management, ensures implementation of SERP and outcome are consistent with ROP policy, resolves ROP program issues.</p>	<p>NRR Division of Inspection and Regional Support, Deputy Division Director (or Branch Chief)</p>

Role	Responsible Organization/Participant
<p>Enforcement Spokesperson</p> <p>Responsible for determining the adequacy of NOVs related to the inspection findings either White, Yellow, or Red; and ensures the agreements reached at the SERP are documented on the Strategy Form in accordance with OE policies.</p>	<p>Headquarters Office of Enforcement, Deputy Director (or Section Chief).</p>

Other invited participants may include the applicable NRR Project Manager, Regional Enforcement Coordinator, Office of Nuclear Regulatory Research (RES) representative for Accident Sequence Precursor (ASP) Program 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. SERP Preparation

SERPs are typically held during the scheduled weekly regional enforcement 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 SERP, the regions will provide through the NRR Enforcement Coordinator, briefing materials organized per Exhibit 4 of this Attachment, 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 either White, Yellow, Red, or greater 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 of this attachment, "Choice Letter Transmitting Preliminary White/Yellow/Red/Greater Than Green Finding." *(For security-related findings, the choice letter will be controlled as per the guidance in Commission Policy SECY-04-0191 for Safeguards Information or Sensitive Unclassified Non-Safeguards Information (SUNSI) and will not be publicly available.* C1) When the SERP's preliminary determination is either White, Yellow, or Red and the licensee agrees with the NRC's preliminary significance assessment and does not desire to submit a written response or to arrange a Regulatory Conference, then 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." For security-related issues, the region will use Exhibit 6, "Cover Letter Transmitting Final White/Yellow/Red Security-Related Finding (and NOV, if applicable)." The cover letter should include the appropriate paragraph documenting the licensee's declination of a written response or a Regulatory Conference. The licensee's decision to not submit a written response or to arrange a Regulatory Conference will affect their ability to appeal the final SDP determination, in that not doing either fails to meet the appeal requirements stated in the Prerequisite and Limitation sections of Attachment 2 of this Manual Chapter.

The choice letter should provide a discussion of the preliminary significance determination and should be clear and sufficiently complete to allow the licensee to reasonably understand the staff's position. The discussion should provide sufficient information for the licensee to develop further information, as needed, in further understanding the significance of the finding. In all cases, the choice letter must clearly identify to the licensee the basis for the staff's preliminary significance determination with the objective of promoting a common understanding of the significance of the finding. See Section 4 of this document 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 the SERP must either (1) direct specific actions to reconcile the different views; or (2) identify the appropriate NRC manager(s) 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 Inspection 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 AVs, another exit meeting 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 OE's Enforcement Action Tracking System (EATS). Enforcement Action (EA) numbers are assigned to findings that have been discussed during a SERP, regardless of whether the finding results in a violation. During or subsequent to the SERP meeting, 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 D of the Enforcement Manual. The Strategy Form enables tracking of individual findings and 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 meeting(s) would be conducted and separate EA tracking number(s) assigned. If the findings are determined to be Green or are determined not to be findings, the related EA number 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 of the findings' potential safety significance designated as White, Yellow, Red, or greater than Green and offers the licensee an opportunity to participate in a Regulatory Conference. The Regulatory Conference gives the licensee an opportunity to provide the staff information that has not been considered in the preliminary assessment which may affect the outcome of the final significance determination.

a. Scheduling and Announcing Regulatory Conferences

Regulatory Conferences should normally be held within 30 days after the licensee has been issued the choice letter. Should the licensee elect to have a Regulatory Conference, they must notify the Region within 10 days of the receipt of 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 the conference meets the provisions of 10 CFR 2.390 (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 information). Although such a submittal is not required, if provided, it should be made through

docketed correspondence at least seven calendar days in advance 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. If the finding involves an AV 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 and 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 AVs associated with the finding. For security-related findings, the notice should not include any description of the findings.

- (4) Conferences in which security findings 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 when Safeguards Information will be discussed. If such participation becomes necessary, it should be in accordance with Management Directives 12.4, "NRC Telecommunications System Security Program," and 12.6, "NRC Sensitive and Unclassified Information Security Program."
- (5) The region should consult 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 representatives 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 open conferences 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 the media and 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 to attend.
- 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, Nuclear Security and Incident Response (NSIR) if needed, and OE before 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 of this Attachment provides standard opening remarks.
  - (4) The region should briefly discuss the findings being considered and explain the basis of the agency's concern (i.e., safety significance and AV). The level of detail to be discussed should be commensurate with 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 methods used by the NRC to arrive at the preliminary determination of risk significance.

- (5) The licensee should 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 basis and any new information introduced. 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 AVs and/or discussing applicable corrective actions is appropriate. The licensee should indicate its agreement or explain why it does not agree with the AV. The 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 followup inspection activities.
- (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 AVs 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

- (1) Subsequent to a Regulatory Conference, a caucus should be held by the Regional Sponsor to review and evaluate 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 NRC 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 Deputy Division Director or designee on the significance determination and enforcement.

e. Caucus Outcome/Determine Final NRC Position

- (1) 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 warrant 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
- (2) 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.
- (3) If the caucus participants conclude that the licensee presented sufficient information that changes the significance of the finding, or substantially changes its basis and that no additional review and evaluation of licensee information is necessary, the region should prepare a new information package per Exhibit 4 of this Attachment, and the region should schedule another SERP.
- (4) 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. The Region will need to prepare for and conduct an additional SERP following completion of the final significance analysis, whether or not it changes the preliminary significance determination.
4. FINAL SIGNIFICANCE DETERMINATION (AND NOTICE OF VIOLATION (NOV) IF APPLICABLE)
- a. Final Significance Determination Letter and NOV. The region prepares cover letters that transmit final assessment results using the standard format in Exhibit 3 of this Attachment (or Exhibit 6 for security-related findings). 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 findings and any related violations and should include the following elements (for security-related findings, the region addresses the following elements in a nonpublic enclosure to the cover letter):
- (1) A summary of (1) the purpose of the inspection; (2) if and how the finding was reported (e.g., 50.72, LER); (3) when the inspection report related to this action was 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. The licensee decision to not submit a written response or to arrange a Regulatory Conference will affect their ability to appeal the final SDP

determination, in that not doing either fails to meet the appeal requirements stated in the Prerequisite and Limitation sections of Attachment 2 of this Manual Chapter.

- (2) A conclusion that the finding represented an issue of safety significance and that a violation 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, and 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 this Manual Chapter.
  - (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 Deputy Division Directors identified in Section 2.b., OE, and the 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 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 branches 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 the Deputy Regional Administrator normally signs and issues final significance determination cover letters associated with yellow, or red findings.
  - (2) The Regional Administrator or Deputy Regional Administrator 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, and 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. The Commission must be notified three work days before the final letter describing the enforcement notification is issued to the licensee.

## Exhibit 1

### OPENING COMMENTS FOR REGULATORY CONFERENCE

After a potentially safety-significant finding is identified and characterized by the Significance Determination Process (SDP) as either White, Yellow, Red, or greater than Green, an opportunity for a Regulatory Conference is offered to a licensee. In this case, [the licensee's name] requested that a conference be held to discuss the issues and their significance.

This conference is OPEN to public observation. 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 [the licensee's name]. 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 NRC 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 to allow you to present new information that may assist the NRC 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 AVs. Please note that the identified AVs related to the findings are subject to further review and 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 do not 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/ GREATER THAN GREEN] FINDING

EA-YY-XXX

Name of Licensee

Licensee Address

SUBJECT: NRC [Inspection Type]: INSPECTION REPORT DOCKET/YYNNN;  
PRELIMINARY [WHITE/YELLOW/RED/GREATER THAN GREEN] FINDING  
[name of facility]

Dear :[licensee official]:

This letter or the attached supporting documentation (Attachment) discusses a finding that appears to have [for White - low to moderate; for Yellow - substantial; for Red - high; or for Greater than Green - greater than very low] safety significance. As described in Section XXX.X of this report, [include a more detailed description of the finding]. This finding was assessed based on the best available information, including influential assumptions, using the applicable Significance Determination Process (SDP) and was preliminarily determined to be a [White, Yellow, Red or Greater Than Green] Finding. The final resolution of this finding will convey the increment in the importance to safety by assigning the corresponding color 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 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]. The finding has a [low to moderate, substantial, high, or greater than very low safety significance because [describe the main reason(s) the issue resulted in a White, Yellow, Red, or Greater Than Green Finding under the SDP, including most risk-significant scenario and duration of the condition].

[Add either in the body of the letter or as an Attachment to the letter the basis for the staff's significance determination. Include in this discussion important assumptions used in the staff's evaluation and other information that will clearly identify to the licensee the basis for the staff's preliminary significance determination with the objective of promoting a common understanding of the significance of the finding. If the preliminary determination is greater than Green, request from the licensee additional information needed to assist the staff in making its final determination. Do not include information that may be proprietary or SUNSI.]

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

[If a violation is associated with the finding include:] The finding is also an AV 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>.

In accordance with Inspection Manual Chapter (IMC) 0609, we intend to complete our evaluation using the best available information and issue our final determination of safety significance within 90 days of this letter [if this is the first official communication that described the finding; or 90 days from such initial communication, provide the date]

The significant determination process encourages an open dialog between the staff and the licensee, however the dialogue should not impact the timeliness of the staffs final determination. Before we make a final decision on this matter, we are providing you an opportunity (1) 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 (2) submit your position on the finding to the NRC in writing. If you 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. If you decline to request a Regulatory Conference or submit a written response, your ability to appeal the final SDP determination can be affected, in that by not doing either you fail to meet the appeal requirements stated in the Prerequisite and Limitation sections of Attachment 2 of IMC 0609.

Please contact [NRC person] 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 AVs described in the enclosed inspection report may change as a result of further NRC review.

In accordance with 10 CFR 2.390 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 <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). **(Note: Use latest web address - should always verify it works and update if needed)**

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. XX-XXX/YY-NN) [name of facility]

Dear [licensee official]:

The purpose of this letter is to provide you the final results of our significance determination of the preliminary [White, Yellow, Red, or Greater Than Green] finding identified in the subject inspection report. The inspection finding was assessed using the Significance Determination Process and was preliminarily characterized as [White, Yellow, Red, or Greater Than Green], [(i.e., (White) a finding with low to moderate increased importance to safety, which may require additional NRC inspections; (Yellow) 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; or (greater than Green) a finding of greater than very low safety significance resulting in the need for further evaluation to determine significance and therefore the need for additional NRC action). This [White, Yellow, Red, or Greater Than Green] finding involved [describe the finding. Do not include information that may be proprietary or SUNSI].

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

In a telephone conversation with Mr./Ms. [ \_\_\_ ] of NRC, Region X, on [date], [responsible licensee person] of your staff indicated that [licensee name] 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 or provide a written response.

[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 of and justification for not accepting or 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 [month, day, year], 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. 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 2.390 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 <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). **(Note: Use latest web address - should always verify it works and update if needed)**

Sincerely,

Regional Administrator or designee

## Exhibit 4

### SERP Worksheet for SDP-Related Findings

#### General Guidance.

#### Risk-Informed Decision Attributes Meeting Minimum Acceptable standards for ROP.

If the following guidelines are met, the SDP result may be considered meeting the minimal acceptable standard of being risk-informed, for use by the ROP.

- 1) Each assumption is considered on its own merit regardless how it influences the final result. Bounding an assumption between two reasoned limits and selecting an average value is acceptable.
- 2) The SDP result sensitivity to the assumptions is understood by the SERP members allowing them to conclude that the basis for each assumption is adequate, commensurate with its relative influence on the result.
- 3) The logic (e.g., accident sequences) and assumptions are scrutable to inspectors, risk analysts, technical staff, and licensee staff.

#### Specific Guidance for Final Determination SERP

- 1) When point-estimate values of delta CDF (or delta LERF) are very close to a threshold, the SERP should re-examine the bases for all assumptions, starting with the most influential, to assure that they are reasonable and are not being biased. If these are judged reasonable, the decision should proceed based upon the resultant value of the point estimate.
- 2) When a common or programmatic weakness has affected multiple plant SSCs or functions, the SERP may base the SDP result on a probabilistic sensitivity analysis that bounds the SDP. Factual or reasoned basis must be provided for the assumptions supporting each bounding result, using a probabilistic risk model adequate to model the relevant supporting assumptions. When the span between bounding results is a single color, then this may become the SDP result. If the span between bounding results includes multiple colors, then further deliberation or fact gathering must be performed to reduce the level of uncertainty to a single color span.

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 the 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 discrepancies 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 or 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 headquarters (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

### Planning SERP Worksheet

1. State the licensee performance deficiency and any regulatory requirement or industry standard not met.
2. Describe the reason the regional sponsor requests the finding to be reviewed by the Planning SERP.
3. State why more assessment time is needed beyond the 90 day timeliness goal, if applicable.
4. Describe the proposed scope of the assessment, identify the proposed methodology (e.g. Phase 2, simplified Phase 3, detailed Phase 3) and justify the level of methodology recommended for the preliminary assessment.
5. Provide a recommended schedule for the completion of the assessment.
6. Provide the recommended expertise to complete the assessment.
7. Provide a discussion as to the applicability of NRC Management Review described in IMC 0612, Appendix B, should or should not be used for arriving at a preliminary determination.
8. Provide additional comments for SERP consideration such as known conservatisms, uncertainty ranges, influential assumptions, and use of what is considered best available information.

Exhibit 6

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

**[Note: the letter and enclosure will be marked as per MD 12.6 for the highest level of controlled information contained in the enclosures; either safeguards information or official use only (SUNSI)]**

EA-YY-XXX

Licensee Address

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR SECURITY-RELATED GREATER THAN GREEN FINDING(S) [if applicable, add: "AND NOTICE OF VIOLATION"]  
(NRC Inspection Report No. XX-XXX/YY-NN)  
[name of facility]

Dear [*licensee official*]:

The purpose of this letter is to provide you the final results of our significance determination of one or more greater than Green findings identified in the subject inspection report. The inspection findings were assessed using the Physical Protection Significance Determination Process and were preliminarily characterized as more than very low security significance. Specific details of the NRC's decision are included in the attachment[s] to this letter.

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

In a telephone conversation with [*Mr./Ms. name*] of NRC, Region [*X*], on [*date*], [*responsible licensee person*] of your staff indicated that [*licensee name*] did not contest the characterization of the significance of these findings and that you declined your opportunity to discuss these issues in a Regulatory Conference or to provide a written response.

**[For regulatory conferences, include the following paragraph.]**

At your request, a Regulatory Conference was held on [*date*], to further discuss your views on these issues. During the meeting your staff described your assessment of the significance of the findings, detailed corrective actions, and the root cause evaluations for the event classification issues, if any. [*State whether or not the licensee's perspectives presented at the conference were accepted by the NRC staff.*]

After considering the information developed during the inspection [if applicable, add: ", the additional information you provided in your letter dated [month, day, year], and the information you provided at the conference"], the NRC has concluded that the inspection

findings are appropriately characterized as greater than Green (i.e., more than very low security significance), which may require additional NRC inspections.

You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified findings. Such appeals will be considered to have merit only if they meet the criteria given in Attachment 3 to NRC Inspection Manual Chapter 0609.

**[If an NOV is attached, include the next two paragraphs.]**

The NRC has also determined that the findings are a violation of certain NRC requirements, as cited in the attached notice of violation (Notice). The circumstances surrounding the violations are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, the Notice is considered escalated enforcement action because it is associated with greater than Green findings.

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 beyond the licensee response band, we will use the NRC's Security Action Matrix to determine the most appropriate NRC response for these issues. We will notify you, by separate correspondence, of that determination.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter 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 Website at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). However, because of the security-related concerns contained in the enclosure, and in accordance with 10 CFR 2.390, a copy of this letter's enclosure will not be available for public inspection. **(Note: Use latest web address—always verify it works and update it if needed.)**

In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response, if any. This practice will ensure that your response will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system, ADAMS. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. **(Alternatively use)** [If classified information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 95."] Otherwise, mark your entire response "Security-Related Information—Withhold Under 10 CFR 2.390" and follow the instructions for withholding in 10 CFR 2.390(b)(1).

Sincerely,

Regional Administrator or designee

Enclosures:

1. Final Determination of Significance (Safeguards Information)
2. [If necessary] Notice of Violation (Safeguards Information)

cc w/encl: **[Note: Use non-public distribution list including distribution to the State Liaison Officer and other key persons identified in the R. Zimmerman memo to Regional Administrators dated April 19, 2005; Chairman Diaz letter to State Governors dated May 28, 2004; or other NRC/State agreements.]**

cc w/o encl: **[Note: Use normal distribution list.]**

Enclosure 1

[Mark the enclosure for the level of information contained therein;  
safeguards or official use only (SUNSI)]

Final Determination of Significance

Finding Number: [Enter the regional tracking number assigned to the finding in the  
inspection report]

Final Significance: [*White*|*Yellow*|*Red*]

Preliminary Significance Determination:

The finding was preliminarily characterized as [*White, Yellow, Red, or Greater Than Green*], [(i.e., [for *White*] a finding with low to moderate increased importance to security, which may require additional NRC inspections; [for *Yellow*] a finding with substantial importance to security that will result in additional NRC inspection and potentially other NRC action; [for *Red*] a finding of high importance to security that will result in increased NRC inspection and other NRC action; or [for greater than *Green*] a finding of greater than very low security significance resulting in the need for further evaluation to determine significance and therefore the need for additional NRC action). This [*White*|*Yellow*|*Red*|*greater than Green*] finding involved [*describe the finding*].

Regulatory Conference Discussion:

At your request, a Regulatory Conference was held on [*date*], to further discuss your views on this issue. During the meeting your staff described your assessment of the significance of the finding, detailed corrective actions, and the root cause evaluations for the event classification issues. Specifically, [*provide additional details of the licensee assessment and a point-by-point discussion of and justification for not accepting or accepting the licensee perspectives presented at the conference*].

[Mark the enclosure for the level of information contained therein;  
safeguards or official use only (SUNSI)]

ATTACHMENT 1  
Revision History - MC 0609.01

Commitment Tracking Number	Issue Date	Description of Change	Training Needed	Training Completion Date	Comment Resolution Accession Number
N/A	10/13/2006	Revision history reviewed for the last four years	NO	N/A	N/A
N/A	04/21/2000 CN 00-007	This manual chapter supports the New Reactor Oversight Program for significant determination of findings. The significance determination process detailed in the manual chapter is designed to characterize the significance of inspection findings for the NRC licensee performance assessment process using risk insights, as appropriate.	NO	N/A	N/A
N/A	04/30/2002 CN 02-022	0609.01 has been revised to include comments and recommendations provided by the Regions, OIG, and OE. Guidelines for SERP membership and assignments of SERP member responsibilities are provided in Section 2. Guidelines for conducting post Regulatory Conference Caucus appear in Section 3.	NO	N/A	N/A

Commitment Tracking Number	Issue Date	Description of Change	Training Needed	Training Completion Date	Comment Resolution Accession Number
N/A	06/24/2003 CN 03-021	This revision added a requirement that WEB site references be verified and updated. Also, the word "report" in the choice letter was deleted, and the sentence clarified to mean supporting information for the finding. As originally stated, "report" could be interpreted to mean inspection report.	NO	N/A	N/A
N/A	11/22/05 CN 05-030	0609.01 has been revised to reflect a concerted effort to provide guidance which will help meet the Commission's guidance on the timeliness for finalizing the significant determination of inspection findings. The revision considers the regional comments on the proposed guidance on how to meet the timeliness goal. The document reflects the introduction of the Planning SERP as described in IMC 0609 where new guidance on the Planning SERP is detailed.	NO	N/A	N/A

Commitment Tracking Number	Issue Date	Description of Change	Training Needed	Training Completion Date	Comment Resolution Accession Number
NA	11/22/05 CN 05-030 (Cont)	It also allows per Section 2 of the document, that a SERP be re-designated as a Planning SERP and to follow guidance in Section 08.05 of IMC 0609 if the SERP determines that further information and/or analysis is necessary before a finding can be evaluated. A Planning SERP worksheet was added as Exhibit 5.	NO	N/A	N/A
NA	01/10/08 CN 08-002	This revision added reference to the Phase 2 Pre-solved Tables, corrected hyperlinks to WEB site references, and added a caveat the licensee's ability to appeal the final SDP determination if they decline to request a Regulatory Conference or submit a response in writing.	NO	N/A	ML073460588