

### FOLLOWUP ON TRADITIONAL ENFORCEMENT ACTIONS INCLUDING VIOLATIONS, DEVIATIONS, CONFIRMATORY ACTION LETTERS, CONFIRMATORY ORDERS, AND ALTERNATIVE DISPUTE RESOLUTION CONFIRMATORY ORDERS

PROGRAM APPLICABILITY: 2201, 2515, 2517, 2561, 2600, 2602

#### 92702-01 INSPECTION OBJECTIVES

To determine that adequate corrective actions have been implemented for traditional enforcement actions including violations, deviations, Confirmatory Action Letters (CALs), Confirmatory Orders, and Confirmatory Orders associated with the Alternative Dispute Resolution (ADR) process. To verify that the root causes of these enforcement actions have been identified, that their generic implications have been addressed, and that the licensee's programs and practices have been appropriately enhanced to prevent recurrence.

Note that for construction inspection activities, licensee programs referenced throughout this procedure include the licensee Quality Assurance (QA) program.

#### 92702-02 INSPECTION REQUIREMENTS AND GUIDANCE

General Guidance. This inspection procedure provides a mechanism to perform in-office and on-site follow-up inspection of traditional enforcement actions as deemed necessary by the regional office.

10 CFR 50, Appendix B, may form the regulatory basis for many enforcement actions. Licensee commitments that form the basis for deviations may have been made during the licensing process or may have been made in written correspondence to the NRC after receipt of the plant operating license.

In accordance with 10 CFR 2.201, "Notice of Violation", enforcement sanctions typically require written explanations and statements of reply concerning corrective actions, steps taken to prevent recurrence, and a schedule for completion of corrective and preventive actions. Specific responses or actions may be required in other enforcement sanctions. The inspector should carefully review the enforcement actions and inspection report transmittal letters which may contain NRC perceptions of, and concerns with, licensee performance. Such statements are valuable background information.

The NRC inspection program places strong emphasis on the inspection of licensee performance as the basis for determining the overall adequacy of the implementation of licensee programs. Thus, when a deficiency in the licensee performance is identified, and especially when repetitive conditions occur, a key element to be reviewed is the failure of

the licensee program to identify and correct the deficiency. Where licensee corrective actions for NRC identified deficiencies are not adequate, additional inspections (such as IP71152, Problem Identification and Resolution for power reactors and selected portions of IP88005, Management Organization and Controls, for fuel facilities) may be warranted to assess the adequacy of the licensee corrective actions for internally identified problems.

Confirmatory Orders issued as a result of the ADR process require followup to ensure required actions are completed. Inspection followup should be completed as described below; however, inspectors should note that unlike commitments made by licensees in response to violations, Confirmatory Order requirements are legally binding obligations.

02.01 Documentation Review. Conduct a review of licensee responses to traditional enforcement actions to ascertain that the licensee responses and stated corrective and preventive actions were timely and appropriate. Evaluate whether the responses describe the conduct of a root cause analysis and implementation of any appropriate changes in training or procedures. Assess whether generic implications were addressed and whether the licensee programs and practices have been enhanced where appropriate to prevent recurrence.

Determine which responses are to receive onsite followup inspection based on their safety or security significance and complexity, inherent inadequacy, or apparent weaknesses in licensee administrative or management controls. Because of their importance, follow-up will be performed for all traditional enforcement for willful violations and for all ADR Confirmatory Orders.

Guidance: The timing of NRC followup to a routine inspection would depend on the relative qualitative safety or security significance of a deficient licensee program in the area of the traditional enforcement action. Typically, the inspection staff will have information about the probable root cause of traditional enforcement actions as a result of their normal inspection activity. In addition, as part of the enforcement process, the licensee would make their own determination of their program adequacy. The available information can then be used to make a determination on the timing of NRC follow-up, along with the scope and depth of follow-up that is warranted. Followup to ADR Confirmatory Orders should generally be completed after notification by the licensee, or party subject to the order, that the required actions are complete. Some actions are recurring over a long period, as such, followup is not required to wait pending completion of all confirmatory order actions.

The documentation review should include relevant inspection reports, inspection report transmittal letters, Notices of Violations or Deviations, CALs, Confirmatory Orders, ADR Confirmatory Orders, licensee response letters to enforcement correspondence, minutes of related enforcement meetings with the licensee, and any other agency records of communication on the issue with the licensee.

Depending on the relative safety or security significance of the issue, the inspector and their management may conclude that an in-office review of the licensee docketed evaluation and corrective actions may suffice to close out the finding, rather than performing an onsite follow-up inspection.

Because of their unique nature, the regional office should closely coordinate with the Office

of Enforcement (OE) for follow-up of ADR Confirmatory Orders related to discrimination cases. Typically, the OE staff will take the lead to perform the follow-up review of discrimination cases. The review will initially take place in-office. The OE reviewer will determine any necessary on-site follow-up activity and coordinate on-site follow-up with the region. The OE reviewer will also provide a feeder inspection report input to document the results of their review.

02.02 Onsite Inspection. As necessary, conduct an onsite inspection of the selected traditional violations, deviations, CALs, Confirmatory Orders, and ADR Confirmatory Orders with respect to timeliness, completeness, and adequacy of licensee actions in the following areas. Where appropriate, these inspections are to be actual physical verifications of equipment and processes.

- a. Corrective Actions. Determine whether:
  1. Licensee management has assigned responsibility for implementing corrective actions, including any necessary changes in procedures and practices.
  2. Corrective actions have been fully implemented.
  3. The licensee has posted copies of enforcement correspondence for radiological working conditions as required by 10 CFR 19.11.
  4. Followup actions were initiated for deviations noted in any recent Quality Assurance (QA) audits conducted by the licensee of the inspection area in which traditional enforcement actions were identified.
- b. Root Cause Analysis. Review adequacy of licensee analysis.
- c. Generic Implications Analysis. Review adequacy of licensee analysis.
- d. QA Program Procedures and Practices Changes. For activities performed to satisfy a construction inspection program (IMC 2517), determine that the licensee's review of the QA program evaluated the program's scope and effectiveness.

Guidance: The onsite inspection, if necessary, is to both determine the adequacy of the licensee actions to correct the deficiencies associated with the traditional enforcement action, and to examine whether the licensee evaluations included a review of items from their internal self-assessment activities when assessing the repetitive and generic nature of an NRC action and the effectiveness of the related licensee programs. Where an item is identified as repetitive in nature, the licensee should have conducted an in-depth analysis of the effectiveness of their management control systems. This analysis entails the determination of the root cause(s) of deficient management controls and their potential generic implications. Note that this is considered to be the most important part of this inspection procedure. The OE reviewer will identify any necessary on-site verification of selected aspects of a licensee's commitments that are part of the ADR Confirmatory Order related to discrimination that shall be performed to ensure the adequacy of implementation. Confirm that the licensee has instituted appropriate corrective and preventive measures.

Refer to IPs71152, 95001, and 88005 for further guidance on root cause evaluations and corrective action reviews.

The inspector should use their discretion to perform field verification activities to supplement their review of licensee programs to gain assurance that the corrective and preventive measures have been appropriately implemented in the field.

02.03 Documentation. The results of the follow-up ROP inspection activity should be documented in section 4OA5 (Other Activities) of the associated power reactor inspection report. The Plant Issue Matrix for the item should be updated appropriately. It is noted that Confirmatory Orders can be tracked to closure in RPS/IR module (Reactor Protection System/Item Reporting) under independent items (see IMC0306, section 05.06.b.8). Similarly, the results of the follow-up construction inspection activity (IMC2517) should be documented in section IV (other activities).

#### 92702-03 RESOURCE ESTIMATE

This inspection procedure supports the review of the adequacy of a licensee corrective and preventive measures in response to a traditional enforcement violation or deviation, CAL, Confirmatory Order, or ADR Confirmatory Order. The inspector should obtain confidence through an in-office review of the licensee actions, supplemented with onsite reviews and field verifications when appropriate. The amount of time to perform the inspection is a function of the number of findings followed up, as well as the scope and depth of the follow-up activity. This procedure is implemented on an as-needed basis, and can serve as a vehicle to perform follow-up on a single to multiple traditional enforcement actions. For power reactor licensees, this procedure will be performed on an as needed basis as part of IMC2515 Appendix C and IMC2201 Appendix C.

#### 92702-04 REFERENCES

10 CFR 2.201, "Notice of Violation"

10 CFR 19.11, "Posting of Notices to Workers"  
NRC Enforcement Manual (on-line only)

NRC Enforcement Policy (on-line only)

IMC2561, "Decommissioning Power Reactor Inspection Program" (ML031270502)

IMC2201 Appendix C, "General Special and Infrequent Inspections"

IP71152, "Problem Identification and Resolution"

IP95001, "Inspection for One or Two White Inputs in a Strategic Performance Area"

EGM 04-004, Enforcement Guidance memorandum - Alternative Dispute Resolution Pilot Program Subsequent to Completion of an Investigation (October 20, 2004)

Interim Enforcement Policy Regarding Alternative Dispute Resolution (Federal Register Notice Vol. 69, No. 156, page 50219, August 13, 2004)

10 CFR Part 50, Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants"

IMC2517, "Watts Bar Unit 2 Construction Inspection Program"

END

ATTACHMENT 1

Revision History for Inspection Procedure 92702

Commitment Tracking Number	Issue Date	Description of Change	Training Needed	Training Completion Date	Comment Resolution Accession Number
N/A	01/10/08 CN 08-001	Re-issuance of procedure to resolve ROP Feedback Form 2515B-1104 regarding follow-up for traditional enforcement and ADR Confirmatory Orders, and ROP Feedback Form 92702-1216 regarding the interface with security inspection program IMC2201.	None	N/A	ML080020045