

May 19, 2008

MEMORANDUM TO: Frederick D. Brown, Director  
Division of Inspection and Regional Support  
Office of Nuclear Reactor Regulation  
*/RA/*

FROM: Mary Ann Ashley, NRR Enforcement Coordinator  
Division of Inspection and Regional Support  
Office of Nuclear Reactor Regulation

SUBJECT: MEETING WITH INDUSTRY TO DISCUSS THE INTEGRATION OF  
TRADITIONAL ENFORCEMENT INTO PLANT ASSESSMENT

DATE AND TIME: June 17, 2008  
2:30 p.m. – 3:30 p.m.

LOCATION: Nuclear Energy Institute  
1776 I Street, NW  
Suite 400  
Washington, DC, 20006-3708

PURPOSE: To conduct a public meeting with the industry and NRC staff on the  
use of traditional enforcement in plant assessment. Participants will  
be invited to provide their initial reactions and ideas to making changes  
to the assessment process.

CATEGORY 2:\* This is a Category 2 Meeting. The public is invited to participate in this  
meeting by discussing regulatory issues with the Nuclear Regulatory  
Commission (NRC) at designated points identified on the agenda.

PARTICIPANTS: Participants from the NRC include members of the Office of Nuclear  
Reactor Regulation (NRR), the Office of Enforcement (OE), and  
Regions I, II, III, and IV.

NRC  
M. Ashley  
R. Powell  
E. Guthrie  
T. Kozak  
R. Bywater  
N. Hilton

INDUSTRY  
J. Butler, et.al

Contact: Mary Ann Ashley, DIRS/NRR  
301-415-1073

Enclosure:  
Agenda  
Background Information  
Basic Facts  
Areas for Consideration

\* Commissions' Policy Statement on "Enhancing Public Participation in NRC Meetings,"  
67 *Federal register* 36920, May 28, 2002

May 19, 2008

MEMORANDUM TO: Frederick D. Brown, Director  
Division of Inspection and Regional Support  
Office of Nuclear Reactor Regulation  
*/RA/*

FROM: Mary Ann Ashley, NRR Enforcement Coordinator  
Division of Inspection and Regional Support  
Office of Nuclear Reactor Regulation

SUBJECT: MEETING WITH INDUSTRY TO DISCUSS THE INTEGRATION OF  
TRADITIONAL ENFORCEMENT INTO PLANT ASSESSMENT

DATE AND TIME: June 17, 2008  
2:30 p.m. – 3:30 p.m.

LOCATION: Nuclear Energy Institute  
1776 I Street, NW  
Suite 400  
Washington, DC, 20006-3708

PURPOSE: To conduct a public meeting with the industry and NRC staff on the  
use of traditional enforcement in plant assessment. Participants will  
be invited to provide their initial reactions and ideas to making changes  
to the assessment process.

CATEGORY 2:\* This is a Category 2 Meeting. The public is invited to participate in this  
meeting by discussing regulatory issues with the Nuclear Regulatory  
Commission (NRC) at designated points identified on the agenda.

PARTICIPANTS: Participants from the NRC include members of the Office of Nuclear  
Reactor Regulation (NRR), the Office of Enforcement (OE), and  
Regions I, II, III, and IV.

NRC

M. Ashley  
R. Powell  
E. Guthrie  
T. Kozak  
R. Bywater  
N. Hilton

INDUSTRY

J. Butler, et.al

Contact: Mary Ann Ashley, DIRS/NRR  
301-415-1073

Enclosure:  
Agenda; Background Information; Basic Facts; Areas for Consideration

\* Commissions' Policy Statement on "Enhancing Public Participation in NRC Meetings,"  
67 *Federal register* 36920, May 28, 2002  
Accession Number: ML081400415

OFFICE	DIRS/IRIB	DIRS/IPAB	DIRS
NAME	TKobetz	JAndersen	MAshley
DATE	05/19/08	05/19/08	05/19/08

**OFFICIAL RECORD COPY**

Memo to Frederick Brown from Mary Ann Ashley dated May 19, 2008

SUBJECT: MEETING WITH INDUSTRY TO DISCUSS THE INTEGRATION OF  
TRADITIONAL ENFORCEMENT OUTCOMES INTO PLANT ASSESSMENT

DISTRIBUTION:

RidsNrrDirs  
PUBLIC  
Receptionist (OWFN and TWFN)  
RidsRgnIIMailCenter  
RidsRgnIVMailCenter  
NRC participants  
CCarpenter  
DLew  
AHowell  
LWert  
KKennedy  
HChristensen  
GShear  
SWest  
TPruett  
R Powell  
TKozak  
PBonnett

RidsNrrOd  
RidsNrrAdro  
RidsRgnIMailCenter  
RidsOPAMail  
RidsRgnIIIMailCenter  
RidsOgcMailCenter  
NHilton  
AVegel  
ABoland  
CPederson  
DChamberlain  
JClifford  
MGamberoni  
DRoberts  
RCaniano  
EGuthrie  
RBywater  
TKolb

MEETING WITH INDUSTRY TO DISCUSS THE  
INTEGRATION OF TRADITIONAL ENFORCEMENT  
INTO PLANT ASSESSMENT

**AGENDA**

Location: NEI Headquarters, Washington, DC

2:30 – 3:15 NRC Traditional Enforcement Working Group discussion with industry representatives.

3:15 – 3:30 Public comment and questions

Purpose of the discussion is to:

- (1) Describe the expected outcomes of the working group effort
- (2) Gather industry perspectives on approaches for achieving the outcomes
- (3) Discuss opportunities for future interactions on the working group activities

## **BACKGROUND INFORMATION**

SECY-08-0046, "ROP Self-Assessment for Calendar Year 2007," contained the following:

*"As a result of the Commission's desire to explore ways in which the ROP can be enhanced to more fully address licensee performance, the staff is considering how substantive cross-cutting issues (SSCI's), **traditional enforcement actions, and other insights could be used more effectively in the ROP.** The staff plans to study these issues over the course of this year and explore ways to enhance the ROP to be more predictive of declining performance and a better indicator of current performance. Possible ways to more fully incorporate these regulatory tools would be to (1) take more assertive NRC actions for repetitive SCCIs, such as requiring additional NRC inspection or affecting a licensee's position in the ROP Action Matrix; and (2) **use certain traditional enforcement items as a more integrated input into the assessment process. The staff will also engage the industry and other stakeholders for their perspectives during the course of the public monthly meetings on the ROP.**"*

Emphasis added to highlight the focus of the NRC Traditional Enforcement Working Group, consisting of representatives from each Region, the Office of Enforcement, and NRR. The group is tasked with:

*Identifying, developing, and evaluating changes to existing guidance that would allow for more consistent use / incorporation / consideration of traditional enforcement outcomes in the assessment process.*

Previous Commission direction has been to not use the enforcement program as a "driving force" of the assessment activities (SRM for SECY-98-045) but rather will use enforcement actions to "influence the range of actions taken when PI and inspection thresholds are crossed" (IMC-0308, Att.4).

## **BASIC FACTS**

NRR and OE have worked for several years on addressing issues and inconsistencies between the ROP and traditional enforcement. In mid-2006, two significant issues remained:

- 1) Determining how to consistently process those issues for which there is no specific SDP and which do not fall into the traditional enforcement areas of willful, impeding the regulatory process, or having actual consequence. These issues include those related to spent fuel pools, ISFSI's, and licensed operator initial licensing/qualification. The issue was addressed by developing IMC-0609, Appendix M.
  
- 2) Incorporating traditional enforcement outcomes into the plant assessment process. The second issue is being addressed by this task force.

***Traditional enforcement*** involves those issues that have

- 1) An actual safety consequence (examples: overexposure or actual radiation release greater than 10 CFR Part 20 limits),
- 2) The potential for impacting the NRC's ability to perform its regulatory function, (examples: failure to provide complete and accurate information or failure to perform a 10 CFR 50.59 and analysis
- or 3) some willful aspects.

IMC-0612 on inspection documentation contains Figure 1 in Appendix B, Issue Screening, addresses traditional enforcement outcomes but the intent is not clearly understood by everyone.

Existing guidance in IMC-0305 (Assessment) includes direction to consider significant enforcement actions (Severity Level III or higher) but does not consider repetitive traditional enforcement outcomes (for example for willfulness) at lower levels.

IMC-0305 also focuses on cross cutting aspects of performance deficiencies, and traditional enforcement outcomes may not be performance deficiencies and may not result in findings within the ROP.

## **AREAS FOR CONSIDERATION**

**(List not all-inclusive)**

What will constitute the 'enforcement history'?

Discrimination findings are already being accounted for in the ROP under safety culture changes and security has a stand-alone process.

What is the appropriate time frame for consideration of traditional enforcement?

Some traditional enforcement issues require several months for the completion of investigations.

How many and what kind of enforcement actions that will remain once discrimination and security have been removed?

The number of willful violations, impeding violations (like reporting violations), and inaccurate information violations must be understood and considered when determining the viability of any possible solutions.

What is the role of severity level?

Counting severity levels differently would introduce an additional level of complexity. For example, the impact on of counting a SL II differently than a SL III on the outcome would need to be determined and the value considered.

How should Alternate Dispute Resolution (ADR) be addressed?

Consideration will also be needed on how to factor in potentially escalated willful cases because most are now going to ADR and will not have a final severity level.

How should a performance issue be handled when it is willful? Is it acceptable to address the significance and willful aspects separately?