

## **IMC 0305 Issues**

### Issues currently addressed in this revision to IMC 0305:

- Clarify the guidance concerning double-counting
- Clarify the guidance on closing out greater than green findings (for those findings held open greater than four quarters or parallel PI inspection findings)
- Clarify that an IP 95001 can be done early if the licensee is ready, but is not prepared for the overall IP 95002 inspection (assumes more than one input)
- Clarify that during an IP 95002, can close out a finding, but leave open the other inputs being inspected. In this case, the licensee would stay in the higher column until the IP 95002 is successfully completed. However, the closed finding would not count towards whether the licensee subsequently would move to Column 4
- Clarify for greater than green findings held open, that they can be used in the assessment of SCCIs for more than four quarters
- Clarify that when a parallel PI inspection finding is issued, the color is backdated to the point where the PI returned to green

### Issues involving IMC 0305 currently being reviewed, but are not included in this revision:

- Evaluate whether SCCIs should be used as inputs to the Action Matrix (PVLL)
- Evaluate whether additional precursors should be used in the assessment process (PVLL)
- Evaluate whether greater than green PIs should remain as inputs into the Action Matrix until the supplement inspection is successfully completed (even though they might have returned to green) (Feedback Form)
- Evaluate whether greater than green PIs should not be used as inputs to the Action Matrix after successful completion of the supplemental inspection (NEI proposal)
- Evaluate whether and how traditional enforcement items should be inputs to the Action Matrix (Feedback Form)
- Evaluate the definition of Repetitive Degraded Cornerstone Column, should two long-standing PIs drive a licensee into Column 4 (IPAB question)

b. “Double-Counting” of Performance Indicators and Inspection Findings.

Some issues may cause a simultaneous crossing of a performance indicator threshold and also generate a safety significant inspection finding. This would result in two or more assessment inputs combining to cause increased regulatory action per the Action Matrix. For example, a single performance issue in the Mitigating Systems Cornerstone could result in an inspection finding and count toward the PI as a failure with unavailability.

For safety significant inspection findings and PIs with the same underlying cause, they should not both be “double-counted” in the Action Matrix in any given quarter. The double counting principle should be applied each quarter in order to reassess Action Matrix inputs using the available current PIs and inspection findings. The highest column of the Action Matrix should be used when there is flexibility in deciding which inputs should be used or excluded from the Action Matrix. However, the double counting principle is not applied across PIs. For example, a system failure could be counted in two PIs with both crossing performance thresholds (into the White band.) This system failure could also be assessed by the significance determination process (SDP) as a white finding. Thus, when applying the double counting criteria, and applying the most conservative outcome, the inspection finding input should be removed and both PIs counted in the Action Matrix for that quarter. For the case where there is a greater-than-green PI and an inspection finding with the same underlying cause, if it was determined that the PI would remain white even with the subtraction of the failure from the PI calculation, the PI input would count, along with the inspection finding. These examples are not considered a deviation from the Action Matrix as defined in section 06.06.f of this manual chapter.

d. Timeframe for Including/Removing Inspection and Parallel Inspection Findings in the Assessment Program.

An inspection finding should only be considered in the assessment program for four quarters, unless it is held open based on the results of the supplemental inspection or if a supplemental inspection has not been conducted. There may be instances in which the corresponding supplemental inspection reveals substantive inadequacies in the licensee's evaluation of the root causes of the original performance deficiency, determination of the extent of the performance problems, or the actions taken or planned to correct the issue. Significant weaknesses in the licensee's evaluation of the performance issue (PI or inspection finding) may be subject to additional agency action, including additional enforcement actions or an expansion of the supplemental inspection procedure as necessary to independently acquire the necessary information to satisfy the inspection requirements. In these situations, the original performance issue will remain open and will not be removed from consideration in the assessment program until the weaknesses identified in the supplemental inspection are addressed and corrected, or a supplemental inspection has been completed successfully. In the associated inspection report, the regional offices must convey the specific weaknesses that the licensee needs to address in order to remove this finding from consideration in the assessment program. The correspondence to the licensee describing the extension of an inspection finding in the assessment process beyond the normal four quarters must be authorized by the appropriate regional division director with concurrence of the Deputy Director of the Division of Inspection and Regional Support (DIRS).

For inspection findings that are extended beyond the original four quarters, the findings will be removed from consideration in the Action Matrix after the quarter in which the successful supplemental inspection was completed. For example, if the inspection period for the successful inspection is in the second quarter and the inspection report is issued in the third quarter, the finding would be considered in the Action Matrix during the second quarter, but not the third quarter.

For significant weaknesses in the licensee's evaluation of a performance issue that is associated with a PI, a parallel PI inspection finding will be opened and given the same color as the PI. Any cross-cutting aspect identified will become effective toward consideration of an SCCI in the quarter that the inspection period closed, even if the PI has reverted back to Green. The finding should be discussed at a SERP prior to notifying the licensee of the issuance of a PI indicator inspection finding. In electing this option, there must be a strong causal link between the original performance deficiency and the ineffective corrective actions. The regional offices must convey the specific weaknesses that the licensee needs to address in order to remove this finding from consideration in the assessment process. This notification should be included in

the cover letter of the supplemental inspection report. Additionally, the finding should take effect in the quarter the supplemental inspection period ended, or the beginning of the quarter in which the PI reverted back to Green, whichever comes first or as necessary to maintain the input into the Action Matrix. The finding will then be removed from consideration of future agency action (per the Action Matrix) in the quarter following the successful supplemental inspection (similar to above). The finding will not be double-counted in the assessment process. Note the parallel PI inspection finding does not need to stay open in the Action Matrix for four quarters. The correspondence to the licensee describing the parallel inspection finding must be authorized by the appropriate regional division director with concurrence of the Deputy Director of the Division of Inspection and Regional Support (DIRS). If this approach is taken by the agency, the regions should issue a violation under 10 CFR Part 50, Appendix B, Criterion XVI, "Corrective Action," if applicable.

For greater-than-green inspection and parallel PI inspection findings with associated cross-cutting aspects that are held open for greater than four quarters, the cross-cutting aspect will be considered as input for SSCI determination within the six month assessment cycle window in which the held open or parallel finding exists. For example, if the held-open fifth quarter is actually the first calendar quarter of the year, the finding will be considered in the mid-cycle assessment period, and not in the end-of cycle assessment the following calendar year. If the finding (held open fifth quarter is the first calendar quarter of the year) is extended beyond the mid-cycle assessment period, then it can be input into the SSCI determination for the following end-of-cycle assessment period.

- e. Additional Supplemental Inspection Guidance. Generally, the supplemental inspection procedure associated with the most significant applicable column of the Action Matrix should only be performed on one occasion. One exception (see section 06.06.d for more details) is when the regional office has determined that the licensee has taken ineffective corrective actions associated with a safety significant PI or inspection finding.

Supplemental inspection procedure scopes should include all white, yellow, or red performance issues in the associated degraded cornerstone or strategic performance area. For example, if a 95002 inspection is being performed due to a yellow PI in the mitigating systems cornerstone, the inspection scope should also include any white PIs and inspection findings in that cornerstone. If a 95002 procedure is being performed due to three white findings in the reactor safety strategic performance area, the inspection scope should include all white PIs and inspection findings in the reactor safety strategic performance area.

If a greater-than-green inspection finding is approaching the end of the four quarters it is considered in the Action Matrix and the licensee is ready for the supplemental inspection, the IP 95001 inspection can be conducted, even

though this finding and other Action Matrix inputs will be subject to a IP 95002 inspection. In this case, assuming the IP 95001 inspection is successful, the licensee would stay in the Degraded Cornerstone column of the Action Matrix until the IP 95002 is successful, however, the closed finding would not be used to determine whether the licensee will transition to the Multiple/Repetitive Degraded Cornerstone column. For example, if an inspection finding starts in quarter one and the licensee has two or more greater-than-green inputs in quarter three, the NRC can conduct the IP 95001 inspection on the first issue in quarter four if the licensee is ready, even though they are not ready for the IP 95002 inspection. If the IP 95001 inspection is completed successfully in the fourth quarter, the licensee will remain in the Degraded Cornerstone column until all aspects of the IP 95002 inspection scope are successfully completed. However, the closed inspection finding (which started in quarter one) will not be used when determining if the licensee should transition to the Multiple/Repetitive Degraded Cornerstone column.

Likewise, any inspection finding that is satisfactorily inspected and resolved through the conduct of a IP 95002 inspection, and is considered isolated from the other findings or PIs inspected, can be removed from consideration in the Action Matrix once the finding has been input into the Action Matrix for four quarters. The basis for the NRC's actions should be stated in the inspection report cover letter. The cover letter should also include the licensee actions necessary to close the remaining (held open) issues. Note that any PI that has a performance threshold exceeded can not be removed from the Action Matrix until the performance threshold has returned to the green band.

If a white inspection finding or PI subsequently occurs in an unrelated cornerstone or strategic performance area, the associated supplemental inspection should be conducted at the appropriate level. For example, two white findings are discovered in the Initiating Events cornerstone which the region inspects using IP 95002. Additionally, a white inspection finding is discovered in the occupational radiation safety cornerstone. The regional office should inspect this finding using IP 95001.