

December 9, 2008

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

FROM: Mary Ann M. Ashley, NRR Enforcement Coordinator **/RA/**
Division of Inspection and Regional Support
Office of Nuclear Reactor Regulation

SUBJECT: WORKING MEETING ON INTEGRATING TRADITIONAL
ENFORCEMENT INTO THE OPERATING REACTOR ASSESSMENT
PROGRAM

DATE AND TIME: Wednesday, January 14, 2009
1 p.m. – 4:30 p.m.

LOCATION: TBD

PURPOSE: The purpose of this working meeting is to bring together NRC staff, utility representatives and other interested stakeholders to discuss NRC plans for integrating traditional enforcement outcomes into the reactor assessment program.

CATEGORY: This is a Category 3 meeting*. The public is invited to participate in this meeting by providing comments and asking questions throughout the meeting.

PARTICIPANTS: Participants are expected to include the following:

<u>NRC:</u>	<u>NEI:</u>
Michael Cheok, NRR	J. Keys, NEI et.al.
Mary Ann Ashley, NRR	
Nick Hilton, OE	
Regional Representatives	

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Enclosures: 1. Meeting Agenda
2. Overview of the Proposal to Integrate Traditional Enforcement Into Operating Reactor Assessment

* Commission's Policy Statement on "Enhancing Public Participation in NRC Meeting," (67 FR 36920) May 28, 2002.

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AGENDA

Working Meeting
“Integrating Traditional Enforcement into Assessment”

January 14, 2009
1:00 pm – 4:30 pm

Location:

1:00 pm	Welcome and History	Mike Cheok Deputy Director, Division of Inspection and Regional Support
1:10 pm	Overview of proposal	Mary Ann Ashley NRR Enforcement Coordinator
1:30 pm – 2:45 pm	Development of thresholds using a review of historical data	All meeting participants
2:45 pm – 3:00 pm	Break	
3:00 pm – 4:00 pm	Development of inspection objectives	All meeting participants
4:00 pm – 4:30 pm	Meeting summary	

Overview of the Proposal to Integrate Traditional Enforcement Into Operating Reactor Assessment

Background: SECY-08-0046, "ROP Self-Assessment for CY2007," contained a commitment by the staff to the Commission to explore how traditional enforcement actions could be used more effectively in the Reactor Oversight Process (ROP). This includes a consideration of how certain traditional enforcement items could be used as a more integrated input into the assessment program.

An NRC working group (consisting of representatives from each Region, NRR, and OE) met with the industry on June 17, 2008, to gather industry perspectives on approaches for achieving the outcome described in the SECY.

Proposal: The working group has proposed an approach characterized by two specific outcomes. First, the group has proposed that the performance deficiency and the traditional enforcement aspects of the problem be separated and processed individually, when possible, and, second, the group proposed a standard for assessing and conducting follow-up on the aspect of licensee performance characterized by traditional enforcement outcomes. The following is a brief description of each.

Separate a performance deficiency from the investigation into traditional enforcement issues (willfulness).

Separating the performance deficiency and the enforcement was used with the Peach Bottom inattentive security officers and with the Davis Besse degraded reactor head issues. In both cases, the approach allowed the performance deficiency to become a more timely input into the action matrix since the finding was not held pending completion of the investigation by the NRC's Office of Investigation into willfulness.

Separating the two aspects ensures that the findings used in the assessment process and the agency activities dictated by the action matrix are reflective of and responsive to current performance. Any associated violations are held and issued only when the investigation is complete. Violations associated with the performance deficiency are not factored into the action matrix. Rather, the investigation and subsequent violations address whether or not there are aspects of licensee performance, such as willfulness, that are the basis for traditional enforcement actions.

The ability to separate the performance deficiency from the subsequent enforcement is not currently in Inspection Manual Chapters 0612 or 0305, but is not precluded. Incorporating this change will make it clear that separating the two is allowed, as long as appropriate coordination is done so that actions within the inspection program will not compromise an ongoing investigation. Both IMC 0612 and IMC 0305 will be revised to reflect the proposed approach when it is adopted.

Inspection follow-up on all traditional enforcement outcomes.

The ROP does not currently require routine follow-up of enforcement actions. In 2008, changes were made to the inspection procedures in response to an NRC Inspector General audit recommendation on Alternate Dispute Resolution (ADR). Regions are now required to follow-up on ADR confirmatory order items. This proposal would

expand that requirement for follow-up to include some level of inspection for all traditional enforcement outcomes.

Using an approach similar to that in the action matrix, a series of inspections with increasing scope is being proposed in response to traditional enforcement results. The proposal would trigger one of three different levels of inspection based on the number and severity level of violations over a specified period of time. However, these inspections would be outside of the action matrix. Inspection to follow-up on enforcement actions could be incorporated into the scope of already planned inspections, including supplemental inspections dictated by the action matrix.

The specifics of the number and level of the violations needed to trigger a follow-up inspection, the window of time to be considered, as well as the level of inspection will be the focus of the working meeting to be held on January 14, 2009.

The attached flow chart illustrates the logic for implementing the proposed changes.

Proposal for Integrating Traditional Enforcement into Assessment

Note 1: TE includes

- Willfulness
- Impeding Regulatory Process
- Actual Consequences

Note 2: Regulatory Process Per Enforcement Policy - page 9

- incomplete and inaccurate info
- failure to receive prior NRC approval
- failure to notify NRC of changes
- failure to perform 50.59 analyses
- failure to report
- etc

Note 3: Decide if PD and TE should be acted on separately. The decision to separate must consider the impact on the investigation of issuing the significance. Decision would be coordinated with OI. Recommend using the ARB as the vehicle for initiating the discussion. Criteria for decision TBD.

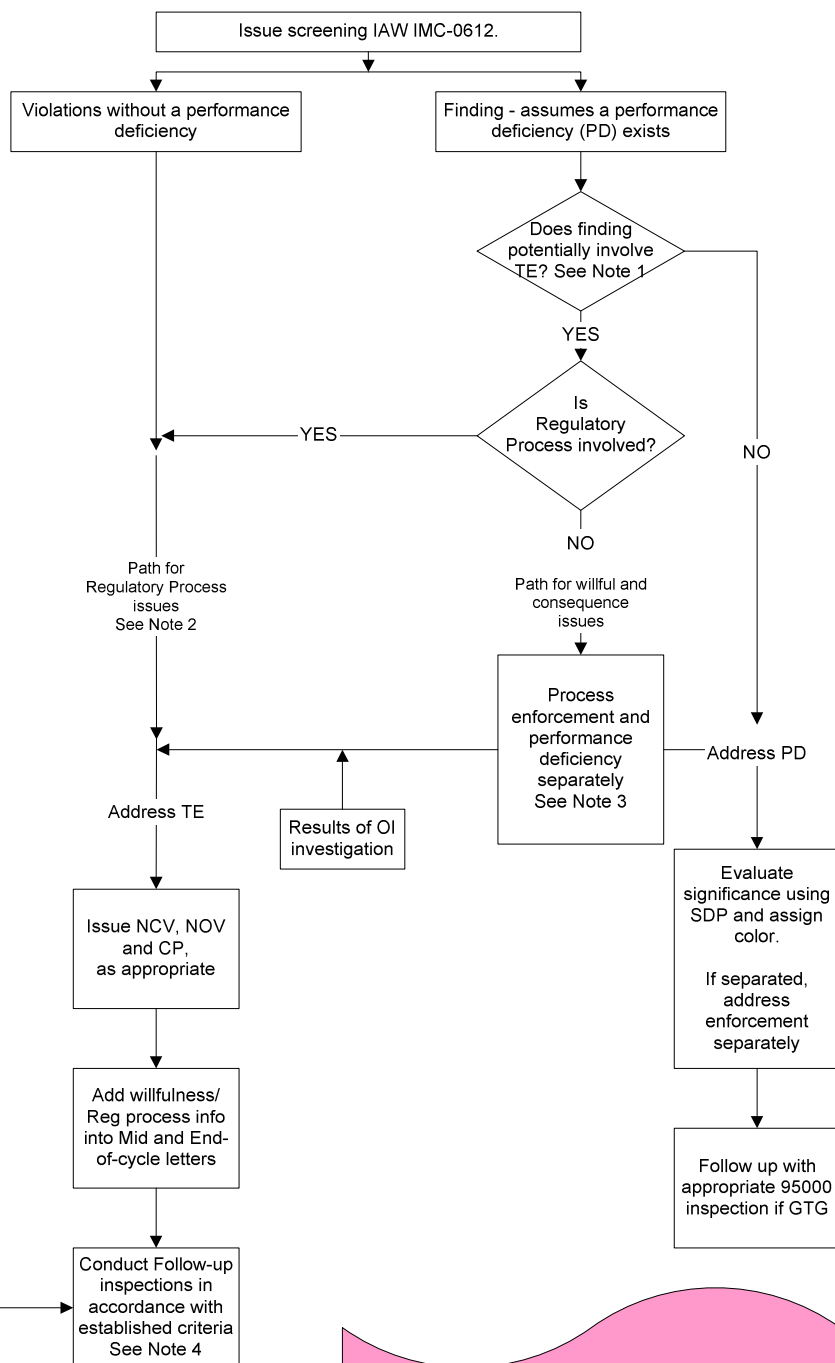
Note 4: If the associated finding is GTG, the 95000 and 92702 inspections can be coordinated.

Proposed Criteria for Triggering Follow-up Inspections:

If 1 or 2 SLIV within time window of X months, then conduct limited scope follow up inspection (<4 hours) of each using '92702 follow up'
Proposed Focus: implementation of corrective actions

If 3rd SLIV or 1st SLIII within time window of X months, then conduct '92702 Lite'
Proposed Focus: expands to include licensee identified root cause and extent of condition

If 4th SLIV, or if more than 1 SLIII within time window of X months, or for any violation greater than SLIII, then conduct '92702 heavy'
Proposed Focus: expands to include some aspects of safety culture



11/20/08

Assumptions to support followup inspections of traditional enforcement:

1. No deviation needed since inspection response to enforcement would be defined.
2. Follow up using 92702 becomes mandatory for all violations.
3. IP 92702 will be revised to provide specific guidance for different levels of response.