

January 29, 2009

MEMORANDUM TO Frederick D. Brown, Director
 Division of Inspection and Regional Support

FROM Mary Ann Ashley */RA/*
 NRR Enforcement Coordinator
 Division of Inspection and Regional Support

SUBJECT SUMMARY OF JANUARY 14, 2009, WORKING MEETING WITH
 STAKEHOLDERS TO DISCUSS AN NRC PROPOSAL FOR
 INTEGRATING TRADITIONAL ENFORCEMENT INTO THE
 ASSESSMENT PROGRAM

The Nuclear Regulatory Commission (NRC) held a Category 3 public meeting on January 14, 2009, for the purpose of discussing a proposal developed by the staff to integrate traditional enforcement into the reactor oversight assessment program. The proposal and a brief explanation were initially issued with the meeting announcement and are shown as Enclosure 1 to this memorandum.

Meeting participants are listed in Enclosure 2. To facilitate discussion at the meeting, the meeting participants were provided a table of traditional enforcement outcomes issued from 2004 to mid-2008, the existing inspections objectives from Inspection Procedures 92702, 95001, 95002 and 95003, and proposed objectives for different levels of inspection being considered under the effort to integrate traditional enforcement into the reactor oversight assessment program. The information provided to the meeting participants is shown in Enclosure 3.

At the start of the meeting, the staff discussed the meeting goals and identified that the purpose of the overall effort was to capture an important aspect of licensee performance that is not currently being used in the assessment program. The staff summarized that the proposal was designed to: (1) respond in some way to traditional enforcement outcomes, (2) have the response be predetermined and proportional to the circumstances, and (3) not result in changes to the existing action matrix structure or outcomes defined in Inspection Manual Chapter 0305. The staff also noted that while traditional enforcement outcomes may at times have a low risk significance, they have a high regulatory significance since they may act, in general, to undermine the NRC's ability to independently assess licensee performance. The staff also noted that for cases involving both willfulness and discrimination, traditional enforcement is the result of a broad agency effort involving the Office of Enforcement, the Office of Investigation (OI), the Office of the General Counsel, and the Regional Offices.

The following are the key points raised during the discussion:

- The industry questioned how public communication would be handled for the IP 92702 inspections. Specifically, they asked if there would be a separate inspection report,

press releases, and a public exit meeting. The staff indicated that the inspections would like be of a more routine nature and would not require the same level of public interaction as the Reactor Oversight Process' (ROP) supplemental inspections.

- The industry suggested that the thresholds for the various inspection levels be tied to a particular type of traditional enforcement (for example, a tally of the willful violations should be considered rather than considering all traditional enforcement.) The industry suggested that this approach would better support inspection to followup on an evolving trend in violations issued to a licensee.
- The NRC staff proposed a look-back period of 24 months. Twenty-four months is used in other aspects of the enforcement program and would be provide some consistency.
- The NRC staff also discussed the inspection resources that might be needed for each level of response. The level of effort will be tied to the scope of the inspection objectives and to the number of violations to be inspected. The inspection procedures will likely have a span of hours indicated, and that span is not expected to as large as the level of effort in the supplemental inspections.
- The industry noted, and the NRC staff agreed, that traditional enforcement violations may have risk significant performance deficiencies associated with them. The NRC staff also noted that traditional enforcement violations always have regulatory significance.
- The industry noted that the current effort appears to overlap with IP 71152, Problem Identification and Resolution. The staff noted that the focus is somewhat different with 71152 focused on issues that may have a safety significant while 92702 focuses on those issues of interest because of their potential impact on the NRC's ability to regulate. The staff noted that making changes to the 71152 inspection could have the effect of introducing a bias into that sample and could divert the procedure from its intended purpose.
- The industry expressed concern on the rigid structure and stated that there should be some flexibility as to when an inspection should be done. The staff agreed that, given the level of effort by the OI into some matters, further review may not be warranted. And, the staff noted that the agency's goal is to plan and schedule all inspections in a way that would be most effective and efficient. However, all agreed that the guidance describing this process should define and inform the staff as to when an inspection is deemed necessary.

The industry representatives at the meeting expressed appreciation for this opportunity to more clearly understand the focus of the NRC efforts and to provide specific comments on the level of inspection effort, thresholds for action, and inspection scope. The industry representatives requested some additional time to discuss the information provided at the meeting and to provide comments in the very near future, i.e. no later than the next monthly ROP meeting.

Enclosures:
As stated

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