

NMSS Very Low Safety Significance Issue Resolution Working Group Report and Implementation Guidance

Following the Office of Nuclear Reactor Regulation (NRR) implementation of the very low safety significance issue resolution (VLSSIR) process to inspection issues covered under the Reactor Oversight Process (ROP), the Office of Nuclear Material Safety and Safeguards (NMSS) staff was tasked to evaluate, and if appropriate, provide recommendations for implementation of the VLSSIR process by NMSS Business Lines (BLs).

NMSS formed a VLSSIR working group (WG) representing the different NMSS BLs to implement VLSSIR for materials. The WG recognized the need to harmonize its implementation of the VLSSIR process with NRR. The approach taken was as follows:

- Ensuring WG provided adequate representation of the different NMSS BLs as well as including NRR VLSSIR, Office of Enforcement, and Office of General Counsel representatives.
- Understanding existing implementation of VLSSIR in reactor BLs and confirming a need to implement in NMSS.
- Standardizing the approach to implement the VLSSIR process across the NMSS BLs; specifically, harmonizing, to the extent possible, with NRR's approach, recognizing the differences in enforcement processes and available risk tools.
 - Defining VLSSIR to better communicate what VLSSIR is and is not
 - Determining which issues are applicable to the VLSSIR process
 - Developing VLSSIR issue screening guidance
 - Developing guidance for issue closure and documentation
- Identifying affected Inspection Manual Chapters (IMCs) and developing template language that provides process guidance for appropriate NMSS IMCs
- Addressing interfaces with the Technical Assistance Request (TAR) Process
- Addressing implementation of VLSSIR across all NMSS BLs
- Summarizing recommendations

Additional detail on each of the above steps is provided in the sections below.

1. Ensuring the WG provided adequate representation

The WG consists of the following members. Subject Matter Experts (SMEs) are also identified that will be available on an as needed basis.

Role	Member	Organization
WG Lead	Stephen Koenick	NMSS/ Division of Decommissioning, Uranium Recovery, and Waste Programs/ Low-Level Waste and Projects Branch
WG Project Managers	Mirabelle Shoemaker Latif Hamdan	NMSS/ Division of Fuel Management/ Material Control and Accounting Branch
Fuel Facilities BL Rep	Benjamin Karmioli	NMSS/ Division of Fuel Management/ Inspection and Oversight Branch
Spent Fuel Storage and Transportation BL Rep	Matthew Learn	NMSS/ Division of Fuel Management/ Inspection and Oversight Branch

Decommissioning and Low-Level Waste BL Reps	Rob Evans Katherine Warner	Region IV Region I
Materials Safety BL Rep	Ryan Craffey	Region III
Regional Representatives	Thomas Vukovinsky Chris Smith	Region II Division of Fuel Facility Inspection/Projects Branch 2 Region IV Division of Operating Reactor Safety ORS/Engineering Branch 2
NRR Representatives	Chris Cauffman (VLSSIR) Antonios Zoulis (RIPE)	NRR/Division of Reactor Oversight/ROP Assessment Branch NRR/Division of Risk Assessment/ Probabilistic Risk Assessment Oversight Branch
OGC Representative	Angela Coggins	Office of the General Counsel/ Licensing, Hearings and Enforcement/ Materials, Fuel Cycle and Waste Programs
OE Representative	David Jones	Office of Enforcement (OE)
Risk Analysis SME	Kevin Coyne	Office of Nuclear Regulatory Research/ Division of Risk Analysis
NMSS OE Liaison	Michele Burgess	NMSS/ Division of Materials Safety, Security, State and Tribal Programs
NMSS Policy & Procedure Processing of Technical Assistance Request	Gretchen Rivera-Capella	NMSS/ Division of Materials Safety, Security, State and Tribal Programs/ Medical Safety and Events Assessment Branch

Representatives from each organization contributed to this report and provided BL perspectives that were included within the NMSS VLSSIR process.

2. Understanding existing implementation of VLSSIR in the reactor business lines and confirming need to implement in NMSS

The WG started with a review of the NRR VLSSIR process contained in the NRR WG report (ML19311B524) as endorsed by the NRR Office Director memo (ML20022A032).

The WG then considered whether the VLSSIR process would benefit the NMSS BLs sufficiently to offset the implementation costs. The WG considered the following factors:

- The NRR VLSSIR process was initially applied to inspection issues within the context of the ROP significance determination process (SDP) and has been recently expanded to include traditional enforcement (i.e., IMC 0612, Appendix B, CN 22-016). Because most NMSS BL inspection issues involve traditional enforcement, the expansion of the NRR VLSSIR process to traditional enforcement provides a framework for a NMSS VLSSIR process.
- Several NMSS BLs have introduced the VLSSIR concept in several IMC updates, but the process has not been consistently applied across all NMSS BLs, and the VLSSIR concept has not been formally rolled out. This piecemeal implementation has led to inconsistent application and understanding.

- There are opportunities within the NMSS BLs for use of the VLSSIR process that would complement existing processes.

The WG determined that formal implementation of VLSSIR would clearly and consistently define what VLSSIR is and what it is not. Further, formalizing the VLSSIR process for the materials BLs would ensure consistent and appropriate use when the process is applicable. The VLSSIR process would not replace existing NMSS processes but would provide an additional process for discontinuing inspection evaluation of an issue when appropriate.

3. Standardizing the VLSSIR process across materials BLs

The WG developed a standard definition for VLSSIR to be applied agencywide, and considered what types of issues could use the VLSSIR process. The WG also developed guidance for screening and documenting issue closure and template inspection manual chapter revisions.

a. Standard Definition of VLSSIR

The WG determined that it was important to conceptually define VLSSIR and understand what it is and what it is not so that it is clear where it can and cannot be applied.

In working with NRR, the VLSSIR WG developed the following agency VLSSIR Process Definition, that can be applied to both reactor and NMSS BLs:

A process used to discontinue inspection of an issue involving an unresolved licensing basis question in which: (1) the resolution of the issue would require considerable staff effort; and (2) the agency has chosen to not expend further effort to resolve the question because the issue would be no greater than green under the ROP or severity level (SL) IV under the traditional enforcement process, if it were determined to be a violation.

This standard definition aligns with the current VLSSIR definition contained in IMC 0612, with two changes—the first change is to align the criteria for discontinuing inspection efforts with the significance used in the Enforcement Policy and SDP (i.e. SL IV and Green). The second change is that this definition deletes a reference to there being no requirement for additional action by the licensee on these issues, which is included in NRR’s current VLSSIR definition in IMC 0612 (CN 19-039). This deletion further distinguishes the separation between VLSSIR and 1) enforcement of known compliance issues and the resulting licensee actions to address the compliance issue and 2) U.S. Nuclear Regulatory Commission (NRC) staff discontinuing its inspection efforts associated with an unresolved licensing basis question. Further, consistent with the philosophy underpinning the NRC’s Inspection Manual as described in IMC 0040, IMCs do not provide or obviate requirements for licensees. In the context of VLSSIR, the term “licensing basis” refers to all regulations, license conditions, and requirements applicable to a facility or licensee, including, but not limited to, the licensee’s written commitments for ensuring compliance. The WG notes that while the term “licensing basis” is well understood and applied by inspection staff supporting the operating reactor BL, it is not commonly used by inspection staff supporting the materials BL. Therefore, the WG anticipates it may be necessary to provide guidance and training, as appropriate, for materials BL staff to apply this concept for VLSSIR.

Although the definition for VLSSIR refers to "safety significance," the VLSSIR process applies to a broad range of regulated areas related to safety, including security, emergency planning and preparedness, documentation control, and reporting. This is consistent with the broad range of issues currently considered in existing screening and assessment processes. For example, for the operating reactor BL, security-related inspection issues are screened and assessed within the ROP. Similarly, the materials BLs use the Enforcement Policy traditional enforcement screening and assessment for security-related issues. For both reactors and materials BLs, these screening and assessment approaches can, therefore, be used to consider a broad range of regulated activities within the VLSSIR process, as well.

b. Applicability of VLSSIR

The WG determined that the VLSSIR process should be considered for inspection issues involving unresolved licensing basis questions of no greater than SL IV if the issue were determined to be a violation and where the resolution of the issue would require considerable staff effort. Inspectors should exercise due diligence in attempting to resolve an unresolved licensing basis question, consistent with the resources allocated to the activity within the inspection program, prior to using the VLSSIR process.

However, VLSSIR cannot be applied to a known compliance issue. Some examples of where VLSSIR would not apply include the following examples:

- There is a known compliance issue that the licensee, or a qualified outside party, resolved in a reasonable and timely manner. In this case, determining significance in accordance with the NRC Enforcement Policy would stipulate the means for dispositioning the issue.
- Issues where there is a clear indication that a non-compliance occurred but certain details concerning the issue have not been finalized (e.g., specific date, time, location). For example, there appears to be certainty in the regulatory requirements applicable to the licensee, but there is a lack of sufficient documentation to support enforcement. In this case, the inspector should continue inspection activities as needed to support the enforcement process.
- There is a disagreement on a licensing basis issue where the NRC concludes that the issue is a regulatory compliance issue, but the licensee does not agree. In this case, the inspector should disposition the issue in accordance with the NRC Enforcement Policy and, as necessary, process a licensee's denial in accordance with the Enforcement Manual.

The VLSSIR process provides a formal framework for staff to consider the potential enforcement significance in determining whether resolution of the licensing basis question is an effective and efficient use of agency resources. If the issue does not meet the screening criteria, the inspector is expected to follow existing processes for issue resolution. These could include the use of an unresolved item (URI), TAR, or both. Upon the receipt of additional information, the VLSSIR process may subsequently be used to discontinue evaluation of an open URI or support closure of a TAR. Staff should consult with management, in determining whether it may be appropriate to continue to expend efforts to resolve an issue that otherwise satisfies the VLSSIR screening criteria based on the unique circumstances of the issue.

The WG also recognizes that cases may arise where clarification of a requirement through generic processes, interim staff guidance, or other appropriate means may be necessary, outside of inspection and assessment, to address broader safety and regulatory concerns. Because the applicability of VLSSIR is based on the licensee's specific licensing basis, consideration of an issue under generic process does not preclude use of the VLSSIR process provided all other process requirements are met. Further, addressing the generic aspects of an issue should not delay timely consideration of a potential VLSSIR issue.

c. VLSSIR issue screening

VLSSIR was created as an initiative within the ROP improvement program and as such, VLSSIR initially only applied to issues that could be assessed by the ROP SDP. Staff's initial screening for consideration for the VLSSIR process was the lowest severity threshold (i.e., capability of screening an issue to no greater than "green" under the SDP). As staff considered expanding VLSSIR to address items that, if determined to be a non-compliance, would be addressed using traditional enforcement, it became necessary to determine a way of characterizing an issue outside of the SDP. To provide a consistent means of designating an issue as being of low enough significance to be considered for the VLSSIR process, staff determined that the SL IV violation examples in the NRC Enforcement Policy could be used as guidance. As a result, NRR revised the VLSSIR issue screening process contained in IMC 0612, Appendix B, "Issue Screening Directions," to include traditional enforcement issues of no greater than SL IV (if the issue was determined to be a violation subject to traditional enforcement), within the VLSSIR process (see Change Notice 22-016). To ensure consistent application of VLSSIR across the agency, the VLSSIR screening criteria for materials BLs in this memo is aligned with the IMC 0612 screening criteria (i.e., SL IV for traditional enforcement).

d. VLSSIR issue closure and documentation

If the staff determines that the issue is appropriate for the VLSSIR process and satisfies the conditions of the screening process, the inspection effort can be discontinued. It is recommended that once the VLSSIR process is used to terminate further inspection of an unresolved licensing basis question, the staff should refrain from spending additional inspection resources on the issue. Adequate documentation of the VLSSIR assessment and basis for discontinuing further inspection is needed for knowledge management purposes to avoid re-inspection of the specific issue in the future in the absence of new and significant information which clearly indicates the existence of a licensing basis noncompliance. In cases where new and significant information becomes known, which clearly indicates a noncompliance has occurred, the impact of the information on the previous VLSSIR assessment should be discussed with management and the issue may be revisited if appropriate. The re-visiting of a VLSSIR issue once closed is expected to be rare and should be done only in cases where such action is consistent with the principles of risk-informed decision making.

In assessing the level of documentation needed for issues where further evaluation was discontinued under the VLSSIR process, the WG considered current practices associated with minor violations, SL IV violations, and closure of URIs.

The WG considered the following benefits of documenting VLSSIR determinations:

1. Documentation would provide the bases for discontinuing inspection/evaluation and when applicable, the closure basis for a previously documented URI.
2. Documentation would alert future inspectors/licensee to the existence of the unresolved licensing basis question and avoid re-inspection of the issue without new information.
3. Documentation provides transparency with external stakeholders on the use of the VLSSIR process.

Given these considerations, and to have accountability with the process and retrievability of information, the WG recommends that all issues where further evaluation has been discontinued using the VLSSIR process be documented in the inspection report.

The WG cautions that using and documenting the VLSSIR process of an issue does not create a staff position (e.g., the forward fit or backfit outside of the appropriate processes). In fact, it is the agency making a deliberate risk-informed decision not to expend additional agency resources in order to make a determination. It should be noted that VLSSIR issues documented in inspection reports should never indicate that the licensee is in compliance or that their actions are acceptable, but rather the reports should state that inspectors made a determination that the VLSSIR process was appropriate, so the agency made a risk-informed decision to discontinue efforts to evaluate any potential non-compliance.

When documenting the application of the VLSSIR process, NMSS BLs may use both the Reactor Program Systems (RPS) and the Web-Based Licensing (WBL) to save and manage inspection reports and supporting information by different BLs (see table below). The RPS already has a search capability and a utility that the staff can use to track use and entries into the system, including any VLSSIR use/entries. The WBL has a similar search capability; however, some work may still have to be performed to develop a utility to track any VLSSIR use and entries in the WBL system, and the NMSS/ Division of Materials Safety, Security, State and Tribal Programs/ Materials Safety and Tribal Liaison Branch staff is capable and prepared to develop such utility should the report be endorsed.

The VLSSIR process will be audited consistent with normal IMC processes.

Database Systems Used by NMSS Business Lines

Business Line	RPS	WBL
33 - Spent Fuel Storage and Transportation*	Y	Y
34 – Nuclear Materials Users	-	Y
35 – Decommissioning and LLW**	Y	Y
36 - High Level Waste	-	-
38 - Fuel Facilities	Y	-

* Region based Independent Spent Fuel Storage Installation inspections use RPS. Headquarter based Spent Fuel Storage and Transportation inspections use WBL but are transitioning to RPS.

** Decommissioning and LLW inspections – materials decommissioning inspections use WBL while reactor decommissioning inspections use RPS.

4. Identifying affected IMCs and required updates

The WG identified the following NMSS IMCs and NMSS Policy and Procedure. The WG notes certain NRR IMCs may need corresponding changes:

- [IMC 0610](#), “Nuclear Material Safety and Safeguards Inspection Reports”
- [IMC 0616](#), “Fuel Cycle Safety and Safeguards Inspection Reports”
- [IMC 2561](#), “Decommissioning Power Reactor Inspection Program”
- [IMC 2600](#), “Fuel Cycle Facility Operational Safety and Safeguards Inspection Program”
- [IMC 2602](#), “Decommissioning Oversight and Inspection Program for Fuel Cycle Facilities and Materials Licensees”
- [IMC 2606](#), “Assessment of the Risk Resulting From a Potential Safety Noncompliance at a Fuel Cycle Facility”
- [IMC 2690](#), “Inspection Program for Storage of Spent Reactor Fuel and Reactor-Related Greater-Than-Class C Waste at Independent Spent Fuel Storage Installations and for 10 CFR PART 71 Transportation Packagings”
- [IMC 2800](#), “Materials Inspection Program”
- [IMC 2801](#), “Uranium Recovery and 11e.(2) Byproduct Material Facility Inspection Program”
- P&P 70-6, “NMSS Processing of Technical Assistance Requests” rev.1
- NRR IMCs to be updated (e.g., IMC 0612)

5. Addressing interfaces with the Technical Assistance Request (TAR) Process

The WG considered experience gained from NRR’s implementation of VLSSIR and discussion contained in NRR Office Instruction COM 106. The WG determined that the VLSSIR process is available to an inspector for determining whether they could discontinue inspection effort on an unresolved licensing basis question based on the screening of the issue. The WG determined that the VLSSIR implementation should be consistent with NRR’s use of the IMC 0612, “Issue Screening,” specifically like IMC 0612, Appendix B, “Issue Screening Directions.” The WG further notes that consideration of safety significance in the TAR process has different objectives than the VLSSIR process. However, there may be circumstances where initial screening associated with a licensing basis question precluded the use of the VLSSIR process, but subsequent evaluation under the TAR process would support discontinuation of the effort under the VLSSIR screening. In those cases, consistent with the screening criteria contained in the proposed IMC (see Appendix C), the TAR may be resolved using the VLSSIR process. The WG notes that the TAR significance screening is performed to assist with prioritization and assigned resources and does not replace the use of the VLSSIR screening process for the purpose of discontinuing inspection effort.

6. Implementation of VLSSIR across all NMSS Business Lines

The WG notes that some preliminary VLSSIR considerations have already been added to some of the NMSS BL IMCs; however, since that time, the level of understanding and approach to NMSS VLSSIR implementation has evolved. To support consistent implementation of VLSSIR across the IMCs and Policy and Procedure (P&P), the WG developed template language,

contained in the appendices to this WG report, which are proposed as interim inspection guidance until subsequent revisions of the IMCs are updated to capture this guidance:

- Appendix A - Standard agencywide VLSSIR definition that can be used in all IMCs.
- Appendix B – Standard template language that provides a high-level overview of the VLSSIR process and points to the more detailed guidance to be included in IMC 0610. This language would be applicable to NMSS inspection programmatic area IMCs such as IMC 2561, 2600, 2602, 2690, 2800, and 2801.
- Appendix C – Detailed VLSSIR process guidance intended to be added as a standalone appendix in IMC 0610 to be referenced by IMC 0616.
- Appendix D – Guidance for the VLSSIR process intended to support the NMSS TAR P&P.

As the IMCs have independent schedules for updates, the WG recommends that the NMSS Office Director issue a memorandum regarding the formal implementation of VLSSIR. The memorandum would enclose the appendices from the WG report to serve as interim inspection guidance until subsequent IMC revisions occur. This would alleviate the need to update the suite of IMCs in the near-term while providing for consistent implementation of VLSSIR.

Placing the detailed VLSSIR process guidance (referenced in Appendix C) in a single IMC (i.e., IMC 0610 Appendix A as referenced by IMC 0616) is intended to minimize the number of IMCs that need to be updated for minor changes to the VLSSIR process. The high-level guidance for each programmatic area discussed in other IMCs is not expected to require modification for minor changes to the VLSSIR process. If the recommended approach to VLSSIR implementation is approved, the interim guidance in Appendices A, B, and C, can be included in the IMCs during future updates. In addition, the WG notes that there will be some conforming changes needed for NRR IMCs (e.g., IMC 0612) to reflect items such as the standard VLSSIR definition.

The WG also recommends multiple means of communicating the implementation of VLSSIR process for NMSS BLs by way of incorporating information into preexisting opportunities or other minimally resource intensive efforts such as, potentially: Pop-up seminars; regional seminars; public meetings with stakeholders, and marketing via the One NMSS Teams Channel. The WG would be available to develop and provide inspector training on the implementation of VLSSIR.

Lastly, the WG recognizes that ambiguities within the licensing basis are undesirable and can undermine the clarity of the regulatory process. Therefore, the WG also believes that periodic reviews be conducted of applications of the VLSSIR process to assess the effectiveness of the process and identify areas where we can clarify the language used in future licensing actions, new regulations, or implementation guidance to reduce the potential for licensing basis ambiguities and therefore reduce the need for the VLSSIR process.

7. Summary of recommendations

The working group has the following recommendations:

- NMSS implements the VLSSIR process to the identified NMSS BLs through:
 - The NMSS Office Director endorsing interim staff guidance contained in the appendices to this report, until such time that the respective IMCs are updated or issued for the first time (see Appendix C).
 - Documenting in inspection reports issues where further evaluation was discontinued using the VLSSIR process.
 - Modifying WBL to facilitate VLSSIR tracking.
- NRR makes conforming changes to the VLSSIR references in applicable NRR IMCs in consultation with NMSS.
- NMSS conduct periodic reviews of VLSSIR implementation at an appropriate frequency to assess the effectiveness of the process and feedback lessons learned into the licensing, guidance development, and rulemaking processes.

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Appendix A

Standard VLSSIR Definition

The following definition should be used when referring to VLSSIR process across all NRC Inspection Manual Chapters.

Very Low Safety Significance Issue Resolution Process (VLSSIR Process)

A process used to discontinue inspection of an issue involving an unresolved licensing basis question in which: (1) the resolution of the issue would require considerable staff effort; and (2) the agency has chosen to not expend further effort to resolve the question because the issue would be no greater than green under the ROP or severity level (SL) IV under the traditional enforcement process, if it were determined to be a violation.

Appendix B

Standard Language for NMSS Business Line Inspection Manual Chapters

The standard language for programmatic inspection manual chapters that will provide the applicability of the VLSSIR process to the subject IMC. This language will provide a pointer to the more detailed guidance in IMC 0610 and is intended to require minimal updates if the VLSSIR process is modified.

Standard Language being proposed:

xx.xx Applicability of Very Low Safety Significance Issue Resolution Process

NOTE: The VLSSIR process cannot be used to resolve known compliance issues, issues where there is a clear indication that a noncompliance occurred but certain details concerning the issue have not been finalized (e.g., specific date, time, location), nor should it be used to establish a staff position.

In some cases, an inspector may identify an issue that results in an unresolved licensing basis question which may take staff considerable effort to resolve. In the context of VLSSIR, the term "licensing basis" refers to all regulations, license conditions, and requirements applicable to a facility or licensee, including, but not limited to, the licensee's written commitments for ensuring compliance. In determining how to proceed, the inspector should consider the significance of the issue.* The inspector should refer to the guidance available in IMC 0610, Appendix A, "Screening and Documentation of Very Low Safety Significance Issue Resolution Process," also referenced by IMC 0616, to determine if the issue is no greater than severity level (SL) IV if determined to be a non-compliance. If the issue is no greater than SL IV, further evaluation of the issue can be discontinued using the VLSSIR process. If further inspection of the issue cannot be discontinued using the VLSSIR process, then resolution of the issue should be continued following existing processes, including the identification of an unresolved issue and/or use of the headquarters technical support for regional activities, e.g., Technical Assistance Request (TAR) process.

If inspection of an issue is discontinued using the VLSSIR process, no further staff effort to resolve the issue is necessary. Documentation of the issue, in accordance with IMC 0610, Appendix A, should provide an appropriate level of inspection closure, knowledge management, and transparency.

Once a VLSSIR is documented the staff should generally refrain from spending additional inspection resources on the issue.

* Although the definition for VLSSIR refers to "safety significance," the VLSSIR process applies to a broad range of regulated areas related to safety, including security, emergency planning and preparedness, documentation control, and reporting.

Appendix C

Detailed VLSSIR Process Guidance

This guidance is intended to be inserted into the IMC 0610, Nuclear Material Safety and Safeguards Inspection Reports as a standalone appendix to provide detailed guidance for the VLSSIR process, as described below. IMC 0616, Fuel Cycle Safety and Safeguards Inspection Reports will reference IMC 0610.

INSPECTION MANUAL CHAPTER 0610 APPENDIX A

SCREENING AND DOCUMENTATION OF VERY LOW SAFETY SIGNIFICANCE ISSUE RESOLUTION PROCESS

0610A-01 PURPOSE

Inspectors can use the Very Low Safety Significance Issue Resolution (VLSSIR) process to discontinue inspection of an issue involving an unresolved licensing basis question in which the resolution of the question cannot be resolved without considerable staff effort and the issue* would be of no greater than severity level (SL) IV, if determined to be a violation. In these circumstances, the agency can choose not to expend further inspection effort to resolve the question. In the context of VLSSIR, the term "licensing basis" refers to all regulations, license conditions, and requirements applicable to a facility or licensee, including, but not limited to, the licensee's written commitments for ensuring compliance. The VLSSIR process uses the criteria below to determine if an issue would be no greater than SL IV, if determined to be a violation, without expanding additional resources to resolve the question.

The VLSSIR process cannot be used to disposition a known compliance issue or an issue where there is a clear indication that a non-compliance occurred, regardless of the significance.

0610A-02 OBJECTIVES

02.01 To provide the screening criteria for VLSSIR applicability.

02.02 To provide guidance related to documentation of licensing basis questions that the staff has determined to discontinue inspection.

0610A-03 APPLICABILITY

The VLSSIR process as described below is applicable to the Nuclear Material Safety and Safeguards business lines.

0610A-04 DEFINITIONS

VLSSIR Process: A process used to discontinue inspection of an issue involving an unresolved licensing basis question in which: (1) the resolution of the issue would require considerable staff effort; and (2) the agency has chosen to not expend further effort to resolve the question because the issue would be no greater than SL IV, if determined to be a violation.

* Although the definition for VLSSIR refers to "safety significance," the VLSSIR process applies to a broad range of regulated areas related to safety, including security, emergency planning and preparedness, documentation control, and reporting.

0610A-05 RESPONSIBILITIES AND AUTHORITIES

- a. Inspector's supervisor may work with the inspector to determine if additional inspection to resolve the unresolved licensing basis question is warranted consistent with the VLSSIR screening process.
- b. Inspector has ability to use VLSSIR process to discontinue inspection of an issue involving an unresolved licensing basis question.
- c. The management team and inspection staff have a shared responsibility to continually balance the resources applied to an inspection activity relative the potential safety significance of the activity to ensure inspection resources are prioritized commensurate with the issue's safety significance. The VLSSIR process should be considered as a tool to help achieve an appropriate balance.

0610A-06 REQUIREMENTS

There are no new requirements introduced within this IMC.

0610A-07 GUIDANCE

In some cases, an inspector may identify an issue involving an unresolved licensing basis question. In these cases, the inspector should consider the significance of the concern using the screening criteria provided in Figure 1.

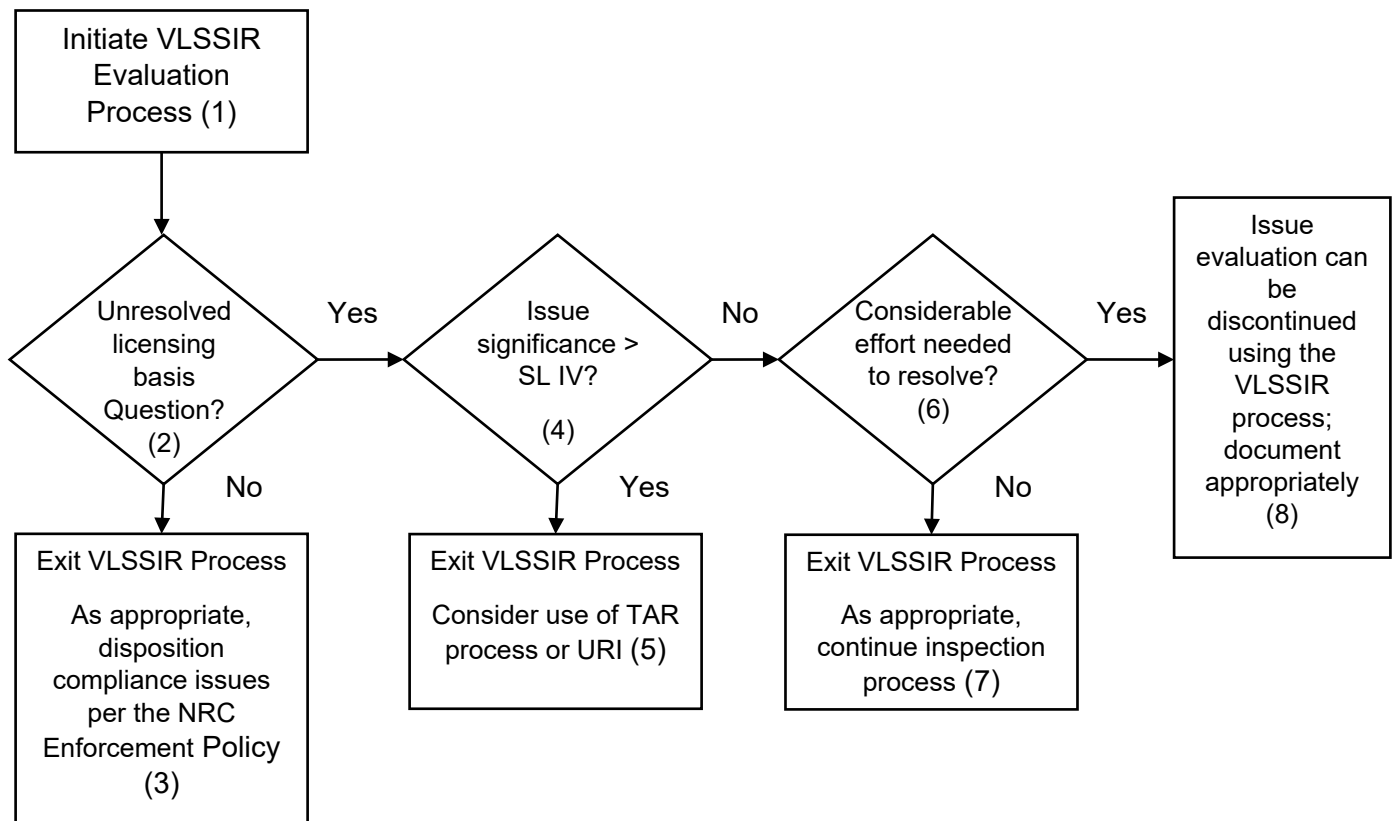


Figure 1, VLSSIR Evaluation Process

PROCESS: STEPS

To determine whether further evaluation of an issue can be discontinued using the VLSSIR process, the following steps should be followed:

- (1) **Initiate VLSSIR Evaluation Process:** The VLSSIR process provides an option for discontinuing the evaluation of certain unresolved licensing basis questions when (1) considerable effort would be required to resolve the issue and (2) the issue would align with those that would be no greater than SL IV, if determined to be a violation. In the context of VLSSIR, the term “licensing basis” refers to all regulations, license conditions, and requirements applicable to a facility or licensee, including, but not limited to, the licensee’s written commitments for ensuring compliance. The use of the VLSSIR process is expected to be rare as the NRC is generally expected to have clarity in licensing bases. Use of VLSSIR is not mandatory but is an option for inspectors to consider in determining whether to discontinue inspection of an item. The inspector should make the licensee aware of the issue and staff’s consideration of the VLSSIR process. If the licensee can provide additional information that can resolve the concern

(e.g., provide information that shows the concern is not a regulatory compliance issue), no further inspection effort may be necessary.

- (2) Determine if an unresolved licensing basis question exists: Before concluding that an unresolved licensing basis question exists, an appropriate level of inspection effort should be expended to resolve the issue (e.g., consideration should be given to the resources assigned for the inspection activity and the time expended on the inspection to exercise due diligence in attempting to resolve the issue). If an inspector is unsure of the appropriate level of effort to expend in attempting to resolve the licensing basis question, they should consult with management. Together they should weigh the issue characterization, available licensing basis information, and risk insights to determine if additional inspection and evaluation to resolve the unresolved licensing basis question is warranted. In addition, the inspector should consider any licensee provided supporting information related to the issue of concern and the associated regulatory basis. If, after expending a reasonable inspection effort, it is determined that an unresolved licensing basis question exists, the safety significance of the issue is evaluated under step (4). Issues where the licensing basis question is clear should be dispositioned outside the VLSSIR process (see block (3)). For issues where there is a clear indication that a non-compliance occurred but certain details concerning the issue have not been finalized (e.g., specific date, time, location), use of the VLSSIR process is not appropriate. In this case, the inspector should evaluate if additional inspection is warranted using normal inspection guidance to disposition any compliance issue using the NRC Enforcement Policy.
- (3) Exit the VLSSIR process if there is not an unresolved licensing basis question: If the licensing basis question is resolved (either by determining that a violation exists, that there is clear indication that a non-compliance occurred, or that the issue is not associated with a regulatory requirement), the inspector should exit the VLSSIR process and appropriately disposition the issue. Compliance issues shall be dispositioned consistent with the NRC Enforcement Policy.
- (4) Determine if the issue is greater than SL IV: The issue of concern should be of no greater than SL IV to use the VLSSIR process. In analyzing whether an issue falls within this threshold, the inspector should consider whether the issue, if it were determined to be a compliance issue, would not have the potential to be of greater severity than SL IV violation examples as described in the NRC Enforcement Policy for the associated activity area. Staff should consult with management, in determining whether it may be appropriate to continue to expend efforts to resolve an issue that otherwise satisfies the VLSSIR screening criteria based on the unique circumstances of the issue.

VLSSIR should not be applied to the import and export and discrimination activity areas, even when the issue is of no greater than SL IV.

- (5) Exit the VLSSIR process if the issue is greater than SL IV: If safety significance of the unresolved licensing basis question is greater than SL IV, the VLSSIR process cannot be used. Consideration should be given to use of the Unresolved Item (URI) and/or Technical Assistance Request (TAR) processes to resolve the licensing basis question.

- (6) Determine if considerable effort is required to resolve licensing basis question: The objective of this step is to assess the effort required to resolve an issue that is no greater than SL IV, and whether resolution of the issue would effectively and efficiently serve the agency's mission. When assessing this criterion, consideration should be given to the time already expended on the inspection, the estimated effort and resources needed to resolve the licensing basis question, and the uncertainties associated with the issue. In assessing if the additional resources needed to resolve the issue would be "considerable", the inspector should consult with management. Together they should weigh the issue characterization to determine if resolution of an issue that is not greater than SL IV is an effective and efficient use of agency resources.
- (7) Exit the VLSSIR process if considerable effort is not needed to resolve the issue: In this case, the inspector should continue the inspection to resolve the issue. If a reasonable amount of additional inspection effort does not resolve the issue, the level of effort needed to resolve the issue can be reassessed and the block (6) revisited.
- (8) Discontinue inspection and evaluation of the issue using the VLSSIR process and document appropriately: If the staff determines that the issue is appropriate for the VLSSIR process and meets the screening process, inspection effort on the issue can be discontinued. When the VLSSIR process is used to terminate further inspection on an unresolved licensing basis question, the staff should refrain from spending additional inspection resources on the issue. All issues dispositioned using the VLSSIR process should be documented in the inspection report or equivalent document. Documentation of VLSSIR issue closure provides several benefits, including the following:
- Documentation provides the bases for discontinuing inspection/evaluation and when applicable, the closure basis for a previously documented unresolved issue/item (e.g., a URI).
 - Documentation would alert future inspectors/licensee to the existence of the unresolved licensing basis question and avoid re-inspection of the issue without new information.
 - Documentation provides transparency with external stakeholders on the use of the VLSSIR process.

However, documenting the discontinuation of issue evaluation using the VLSSIR process should not create a staff position (e.g., the forward fit or backfit outside of the appropriate processes). In fact, the staff is making a deliberate decision not to expend additional agency resources to make a determination on the unresolved question. It should be noted that VLSSIR issues documented in inspection reports should never indicate that the licensee is in compliance or that their actions are acceptable, but rather the reports should state that inspectors made a determination that the VLSSIR process was appropriate so the agency made a decision to discontinue inspection efforts to evaluate the issue.

If the evaluation of any unresolved licensing basis question is discontinued using the VLSSIR process, documentation of this decision is provided within the inspection report in the Observations and Violations or equivalent Section. The level of documentation

should provide a knowledgeable and informed reader with an appropriate understanding of the issue, explain the basis for discontinuing further inspection effort on the issue, support knowledge management, and provide transparency. It is expected that most VLSSIR issues could be appropriately documented with no more than several paragraphs and generally less than the level of documentation normally associated with similar significance issues (e.g., SL IV enforcement issue).

The following information should be used to describe the issue:

- A brief description of the circumstances associated with the issue and any relevant information on the licensing basis question developed during the inspection process.
- A brief description of the significance of the issue in terms of the VLSSIR screening criteria.
- Any licensee provided information related to the licensing basis question.
- A reference to an URI and/or TAR, if applicable.
- If the issue was considered using NMSS Policy and Procedure 7-05, "NMSS Processing of Technical Assistance Requests," or NRR's COM-106, "Technical Assistance Request (TAR) Process," briefly summarize how the results of that process led to the issue being documented in accordance with the VLSSIR process.

The discontinuation of issue evaluation using the VLSSIR process should conclude with the following sentences.

"This issue is an unresolved licensing basis question which is determined to be no greater than SL IV. Inspection and evaluation effort is being discontinued using the Very Low Safety Significance Issue Resolution (VLSSIR) process. No further staff evaluation is required."

0610A-08 REFERENCES

1. "NRC Enforcement Policy," (<https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>)
2. NMSS Policy and Procedure 70-09, "Procedures for Processing of Technical Assistance Requests" (formally P&P 7-05)
3. NRR Office Instruction COM-106, "Technical Assistance Request (TAR) Process"

Appendix D

Proposed modifications to the NMSS Policy and Procedure 70-09, “Procedures for Processing of Technical Assistance Requests”

[Insert the following new VLSSIR paragraph at the end of the 2nd paragraph of Section 3.2]

For an inspection issue involving an unresolved licensing basis question which would take staff considerable effort to resolve, staff should consider significance of the issue.* In this context, the term “licensing basis” refers to all regulations, license conditions, and requirements applicable to a facility or licensee, including, but not limited to, the licensee’s written commitments for ensuring compliance. Staff should use the guidance available in IMC 0610, Appendix A, “Screening and Documentation of Very Low Safety Significance Issue Resolution Process” to determine if the issue is no greater than SL IV, if determined to be a violation. If the issue is no greater than SL IV, further evaluation can be discontinued using the Very Low Safety Significance Issue Resolution (VLSSIR) process. Note that the VLSSIR process cannot be used to resolve known compliance issues or issues where there is a reasonable indication that a noncompliance occurred.

[Insert at the end of Section 3.2.1]

Staff may collectively decide that the presented issue, if it is one that involves an unresolved licensing basis question, is no greater than SL IV, if determined to be a violation, and that pursuing the issue to resolution is not an effective nor efficient use of agency resources. In such cases, further evaluation of the issue could be discontinued using the VLSSIR process described in IMC 0610. In pursuing discontinuing evaluation of the issue under VLSSIR, the NMSS Receiving Branch Chief would need to discuss this decision and reach agreement with the Originating Branch Chief and document the basis for the decision in the Technical Assistance Request (TAR) Log. The documentation included in the TAR Log should include a summary of the issue, considered significance and current potential impacts, potential resolutions identified, and basis for not pursuing the TAR (e.g., the issue is considered a minor clarification that has minimal or no improvement in the safety of the licensed activity and would require more than a minimal amount of staff resources to resolve).

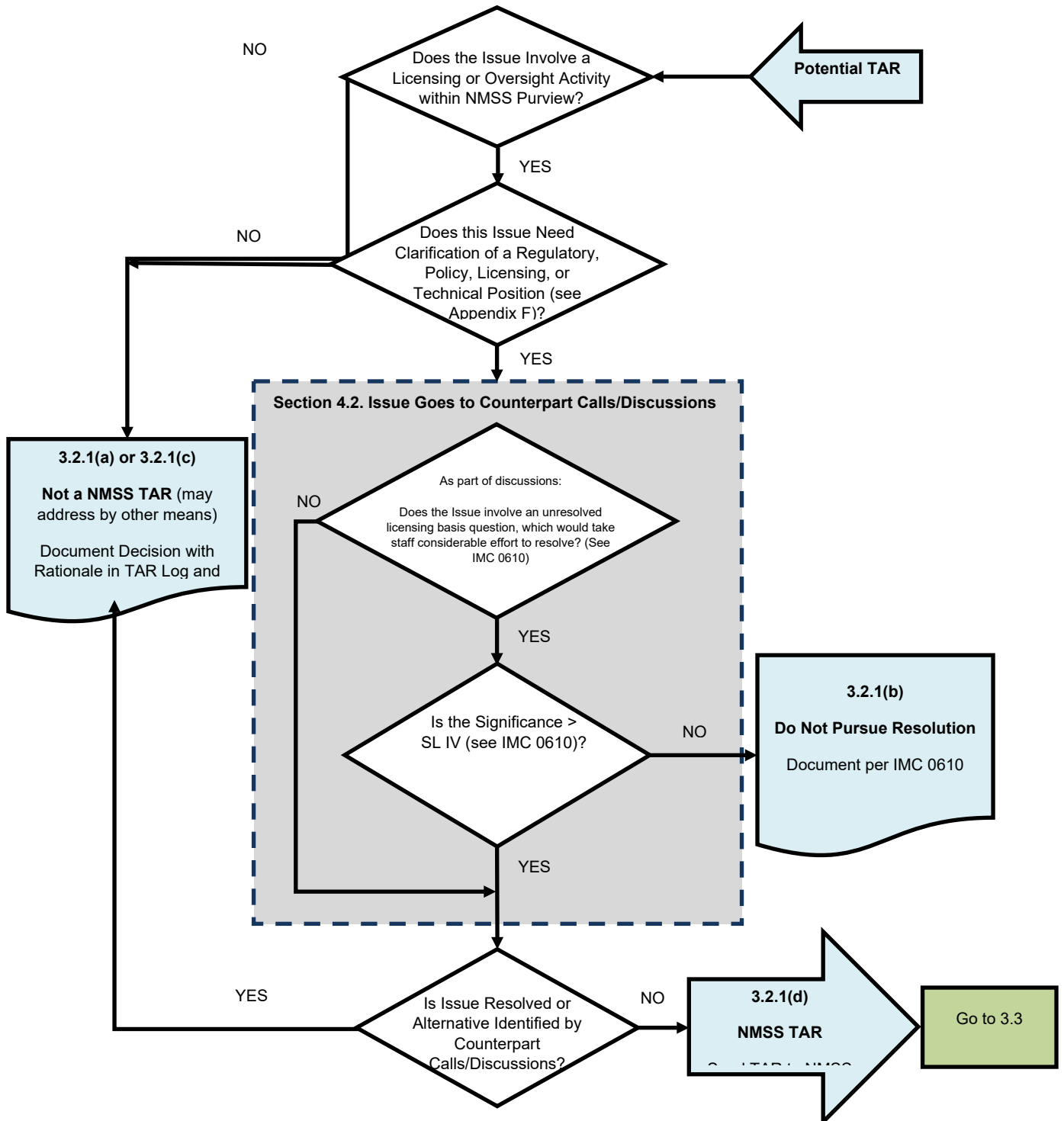
[Insert in Section 3.4.1.b, “TAR Review” at the end of 3.4.1.b.2]

If during reviewing the TAR, information is identified that indicates that an unresolved licensing basis question is of no greater than SL IV, if determined to be a violation, and that pursuing the issue to resolution is not an effective nor efficient use of agency resources, consider using the VLSSIR process as described in IMC 0610 to discontinue further evaluation of the issue.

* Although the definition for VLSSIR refers to “safety significance,” the VLSSIR process applies to a broad range of regulated areas related to safety, including security, emergency planning and preparedness, documentation control, and reporting.

[New Appendix C, Flowchart for TAR Determination]

Flowchart for TAR Determination



* NMSS Receiving Branch Chief documents decision for knowledge management in the TAR Log, as described in Section 3.2.2. This decision must be discussed and agreed with the Originating Branch Chief and both the Originating and NMSS Receiving Division Directors (or Designees) and documented in the TAR Log.

Appendix D, Significance Screening for TARs

[add after first sentence:]

For issues that involve an unresolved licensing basis question that would require considerable effort to resolve, staff should refer to the guidance available in IMC 0610, Appendix A, “Screening and Documentation of Very Low Safety Significance Issue Resolution Process” to determine if the issue is no greater than SL IV. If the issue is no greater than SL IV, if determined to be a violation, further evaluation can be discontinued using the VLSSIR process.

[New table in Appendix E to capture VLSSIR and support determining the safety significance of an issue to aid in prioritization of the TAR (Note bottom rows are expanded to reflect VLSSIR implementation)]

Matrices Colored Regions	Description	Actions to Consider
Red	High Safety/Security Significance (Immediate actions may be warranted to lower the risks)	The TAR process is appropriate, but depending on the urgency of resolving the issue, more immediate actions may be warranted (e.g., increased inspections and management attention [reactive inspection, etc.], issuing orders, confirmatory actions, etc.) along with pursuing the longer-term TAR process. If the issue is not adequately addressed by the regulatory requirements or license provisions, then the backfit process should also be considered.
Orange	Some Safety/Security Significance, but may not be a regulatory requirement or in license (e.g., ALARA/dose trending concerns, precursor events, heightened public awareness/concerns)	The TAR process is appropriate, along with the possible consideration of other near-term actions (e.g., increased management attention, increased trending, or inspections, addressing issue at licensee review meeting, etc.).
White	Lower Safety/Security Significance	The TAR process is appropriate. No immediate safety/security action is typically warranted.
Light Green		
Green		For an issue involving an unresolved licensing basis question, consider use of the VLSSIR process documented in IMC 0610 rather than the TAR process, and, if appropriate, documenting in the TAR Log the basis for not pursuing full resolution.