INSPECTION MANUAL CHAPTER 0609 ATTACHMENT 2

PROCESS FOR APPEALING NRC CHARACTERIZATION OF INSPECTION FINDINGS (SDP APPEAL PROCESS)

Effective Date: 11/19/2026

0609.02-01 PURPOSE

To define the process by which a licensee may appeal the staff's final significance determination of an inspection finding documented in an NRC inspection report or final significance determination letter as White, Yellow, or Red. Consistent with the intent of the Significance Determination Process (SDP) to assess significance in a timely manner using the best available information, the staff should be cautious to ensure that the appeal process does not become a protracted review requiring extensive staff resources. Appealing the final significance of a finding is a separate process from contesting or disputing a violation.

0609.02-02 PREREQUISITES

It is assumed that prior to issuing the final significance determination and documenting this in an inspection report, including the SDP basis for significance, the staff would have completed the following:

a. Applying the best available information, the responsible inspector would have established the licensee's performance deficiency and characterized the finding as potentially greater-than-Green. Using the applicable SDP appendix, the inspector/analyst would have determined the proposed preliminary color for the finding (White, Yellow, Red, or greater-than-Green).

b. Each finding that the staff's significance determination has preliminarily characterized White, Yellow, Red, or greater-than-Green would have been presented to and reviewed by the NRC Significance and Enforcement Review Panel (SERP). Subsequently, the staff would have informed the licensee of the preliminary characterization of the issue in a preliminary significance determination letter which included an invitation for the licensee to present additional information.

c. If the licensee opted for an opportunity to present additional information to the staff either by meeting with regional management at a Regulatory Conference or by submitting additional information in writing on the docket, such information would have been reviewed and dispositioned by the staff. Additional information that the licensee indicated was not available to present at the Regulatory Conference, should be received by the staff within a reasonable period of time (agreed upon between the licensee and the staff, and documented), to allow the staff adequate time to review the information.

d. The staff has sent the licensee a letter which states the staff's final significance determination and broadly responds to the information provided by the licensee.

0609.02-03 LIMITATIONS

Licensee appeals to reduce the final significance of an inspection finding will be considered as having sufficient merit for review by this appeal process only if the licensee's contention falls into one of the following categories:

a. The staff's significance determination process was inconsistent with the applicable SDP guidance or lacked justification. Issues involving the staff's choice of probabilistic risk modeling assumptions used in the SDP will not be considered appealable under this process, provided the staff documented its justification in those cases where the licensee presented a different point of view.

b. Actual (verifiable) plant hardware, procedures, or equipment configurations, identified by the licensee to the NRC staff at the Regulatory Conference or in writing prior to the staff reaching a final significance determination, were not considered by the staff.

c. A licensee submits new information which was not available at the time of the Regulatory Conference. New information will be considered only if the licensee informed the staff that additional information was under development prior to or during the Regulatory Conference, or in their written response to the preliminary significance determination. The information under development should have been received within a reasonable period of time (agreed upon between the licensee and the staff) for the staff to review it.

0609.02-04 INSPECTION REPORT COVER LETTER TRANSMITTING A FINAL SIGNIFICANCE DETERMINATION

The following statement will be added to each inspection report cover letter or other official correspondence that transmits an inspection finding with a final determination of White, Yellow, or Red significance (greater-than-Green (GTG) for findings in the security cornerstone):

> "You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified [White/Yellow/Red/GTG] finding[s]. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2."

Should the licensee accept the preliminary significance determination, that is, they decline an opportunity to participate in a Regulatory Conference and decline to provide a written response to the preliminary significance, then the prerequisites in section 2 are not met. In lieu of the above statement, the following language should be added to the inspection report cover letter or other official correspondence that transmits an inspection finding with a final determination of White, Yellow, or Red significance (GTG for findings in the security cornerstone):

> "According to NRC Inspection Manual Chapter (IMC) 0609, Attachment 2, appeal rights only apply to those licensees that have either attended a Regulatory Conference or submitted a written response to the preliminary determination letter. Therefore, this final significance determination cannot be appealed."

a. The licensee must submit its letter of appeal to the Regional Administrator (RA) or to the NRC Office Director responsible for the inspection within 30 calendar days of the date of the transmittal letter containing the final significance determination.

b. The RA or responsible NRC Office Director should determine within 30 calendar days of the receipt of the licensee's appeal request whether the appeal meets the above merit guidelines. Following the determination, but still within the 30 calendar days, the RA or responsible NRC Office Director should inform the licensee in writing of the decision and its basis. If the decision is not to accept the appeal, the basis in the written letter should specifically address which appeal criteria were not met and why. For example, if the appeal is not accepted because the information in the appeal had already been considered, the letter should describe how the information was previously considered. The Director of the Division of Oversight and Compliance Programs in the Office of the Chief Nuclear Reactor Inspector (CNRI) and, for radiation protection or cybersecurity issues, the applicable Division Director in the Office of Nuclear Reactor Regulation (NRR) should concur on the letter transmitting the decision to accept or not accept the appeal.

c. If the appeal is accepted, the associated review and written notification to the licensee stating the results of the appeal review should be completed within 45 calendar days following the acceptance of the appeal. The RA or responsible NRC Office Director will designate an appeal panel consisting of, at a minimum, two technical experts in the cornerstone being discussed and an enforcement specialist. The RA or responsible NRC Office Director may also request representation by the Office of General Counsel (OGC). The technical experts should have risk analysis experience (typically one from the region that issued the greater-than-Green finding and one from headquarters). Other staff with related technical expertise and experience with the applicable IMC 0609 guidance may also be designated to support the review of the appeal. At least one panel member must not have had prior involvement with the significance determination under appeal. The principal purpose of the panel is to arrive at a consensus regarding the validity of the licensee's appeal.

d. If an appeal was accepted for review, the licensee may request a public meeting to present the information included in their appeal submittal. The meeting should be scheduled to occur within 15 calendar days of the licensee receiving notification that the appeal request has been accepted for review. Any information presented at the public meeting shall have merit consistent with the limitations for appeals. Any information presented at the public meeting should have been included in the original letter from the licensee requesting an appeal.

e. The appeal panel will review the inspection finding, its significance characterization and basis, any new information that was being developed at the time of the Regulatory Conference, and the licensee's points of contention. The panel will conduct its review based only on docketed information either provided by the licensee, issued by the staff, or otherwise publicly available. The panel may recommend one of the following:

   1. No further action and the significance determination is unchanged, or

   2. More detailed justification of the basis for the significance determination is required, or

3. Change the significance determination (either increase or decrease), as appropriate.

   The panel may also recommend changes to the SDP, regardless of whether such changes would affect the outcome of the appeal under review.

f. The appeal panel will provide its conclusions to the SERP in writing, in the form of a memo to the SERP decision-makers. Within 10 working days of the date of the appeal panel's written conclusions, the SERP decision-makers will consider the results of the appeal panel. The SERP decision-makers will provide the results of their review to the CNRI Director, Deputy Director for Inspections and Investigations in CNRI, NRR Director for cybersecurity or radiation protection issues, RA, and the appropriate division directors in CNRI and the regional office within 5 working days.

Within 5 working days of receiving the final recommendation memorandum, the CNRI Director, NRR Director for cybersecurity or radiation protection issues, and the RA will confer and jointly agree on the final decision. Subsequently the RA or responsible NRC Office Director will notify the licensee in writing of the final agency position. Both the RA and the responsible NRC Office Director(s) should concur on this correspondence.

The results of the appeal process are final with no further avenues for appeal within the SDP.

END

List of Attachments:

Attachment 1: Revision History for IMC 0609 Attachment 2

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Commitment Tracking Number	Accession Number Issue Date Change Notice	Description of Change	Description of Training Required and Completion Date	Comment Resolution and Closed Feedback Form Accession Number (Pre-Decisional, Non-Public Information)
	04/21/00 CN 00-007	Initial issuance. This manual chapter supports the New Reactor Oversight Program for the significance determination of findings. The significance determination process detailed in the manual chapter is designed to characterize the significance of inspection findings for the NRC licensee performance assessment process using risk insights as appropriate.		
	08/16/01 CN 01-015	IMC 0609.02 (Initial Assessment of Inspection Observations For SDP Entry) is deleted. The information contained in this attachment has been included in IMC 0610*, "Power Reactor Inspection Reports." IMC 0609.03 (Process For Appealing NRC Characterization of Inspection Findings (SDP Appeal Process)) has been renumbered and is now IMC 0609.02.		
	04/30/02 CN 02-022	IMC 0609.02 (Process For Appealing NRC Characterization of Inspection Findings (SDP Appeal Process)) has been revised to include some editorial changes specifying management concurrence at the branch chief levels.		
N/A	ML052870174 11/22/05 CN 05-030	IMC 0609 Att 02 (Significance and Enforcement Review Panel Process) has been revised to emphasize that the NRC is not obligated to consider new information from the licensee once the final significance determination is made.	N/A	N/A

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N/A	ML070360229 01/31/08 CN 08-004	This revision provides additional detail for considering SDP appeals. The addition of a Prerequisites section, establishment of new time limits, 30 calendar days for merit determination plus additional 30 calendar days for completion. Lastly, the appeal panel's recommendations will go to SERP and the final decision will be signed by the Regional Administrator and Director, NRR or NSIR (for Security or Emergency Preparedness).	N/A	ML080280240
N/A	ML101400502 06/08/11 CN 11-010	This revision clarifies that licensees submit additional information within a reasonable period of time agreed upon between the staff and licensee.	No	ML103490458
N/A	ML18187A186 10/23/18 CN 18-036	This revision provides a minor clarification to the required documentation when denying an appeal.	No	ML18191A003
N/A	ML20337A296 01/25/21 CN 21-006	Minor revision to 1) clarify opportunity for public meeting for accepted appeals, and 2) formalize concurrence for appeals correspondence. Additional context for these changes is available in an NRC response letter to NEI (ML19324C685).	No training is required.	ML20339A001

Commitment Tracking Number	Accession Number Issue Date Change Notice	Description of Change	Description of Training Required and Completion Date	Comment Resolution and Closed Feedback Form Accession Number (Pre-Decisional, Non-Public Information)
N/A	ML24156A064 11/22/24 CN 24-037	Minor revision to 1) update document styles consistent with IMC 0040 guidance, 2) close feedback form 2487 by changing the term “appoint” to “designate” in section 0609.02-05c, 3) clarify language to be included in a final determination letter when the licensee accepts the significance of a preliminary finding, 4) provide additional NRC staff time to review and document the results of an appeal based on adding the opportunity for a public meeting in the CY2021 revision, and 5) provide 5 additional days to schedule a public meeting to allow for agency public meeting notice metrics.	No training is required.	ML24159A805 Closed FBF: 0609.02-2487 ML23174A140
N/A	ML26236A313 11/19/26 CN 26-053	Document revised to reflect agency reorganization that took effect in June 2026 and changes to the SERP decision-makers.	N/A	ML26238A273