

**From:** Charles R. Ogle  
**To:** Payne, Charlie  
**Date:** 1/28/03 1:00PM  
**Subject:** Fwd: Re: DRAFT INSPECTION PROCEDURE ON MANUAL ACTIONS

N/16

From: Doug Coe  
To: Charles R. Ogle  
Date: 1/28/03 10:42AM  
Subject: Fwd: Re: DRAFT INSPECTION PROCEDURE ON MANUAL ACTIONS

Chuck,

✓ Thanks for the feedback.

1. My only point was that the guidance is still draft and as such should not be used for discussions with the licensee. The draft guidance, when approved, is intended to provide a measure of consistency. The date in the draft guidance is also draft and probably reflected an over-optimistic review/comment process.

2. The draft memo is intended to simply reflect current ROP guidance. URIs are opened if you need further info to conclude that a finding exists. If you conclude that a finding exists with respect to III.G.2, then manual actions are at best only an interim compensatory measure. The significance of the finding should consider these measures. The licensee must either restore compliance with the requirement or prepare and submit a relief request. However, the industry has been informed of the staff's intent to pursue rulemaking and within a few months we may have an approved rulemaking plan and associated enforcement discretion. It is likely that while the licensee is preparing a relief request (i.e., permanent corrective action) for a very low significance NCV, the staff may arrive at enforcement discretion prior to the licensee submission of the relief request and obviate the need for the request until the rule is changed (at which time the licensee must re-assess whether or not they meet the rule as approved).

I'd like the memo to reflect existing policy and procedure as factually as possible and had forwarded it for comment. If you could propose better language, please forward back to me.

Thanks again,

Doug

✓ >>> Charles R. Ogle 01/28/03 10:11AM >>>

Doug, I know that Chuck Casto already provided a response to your e-mail, but I'd like to add my two cents worth.

1. I am concerned that the note to the DRS division directors and deputies contains ambiguous guidance regarding the purpose of the draft inspection guidance. I think that the difference between the two statements in the memo:

*...is not yet officially approved guidance and should not be used as the basis for discussions with licensees.*

and

*...the draft inspection guidance is intended to encourage consistency in inspector judgement as to whether such manual actions are a reasonable interim compensatory measure*

is subtle at best. Inspector judgement in this case will be the result of inspection of the manual actions. The inspectors will reasonably use the guidance presented to form that judgement and will need to be able to discuss their decision making process to licensees. Further, I think most inspectors and supervisors would have difficulty explaining the practical difference in terms of conducting inspections in these two statements. From a larger sense, I think that if inspectors are going to be asked to inspect an attribute of a licensee's program, then the criteria should be clear and available for the public and the licensee to review. I don't think that these two statements in the memo fit that bill. Also as an additional source of confusion, the draft inspection procedure contains guidance to use the guidance for all inspections conducted after November 2002.

2. I am also confused by the logic in the memo to the DRS division directors to be issued by John Hannon and Cynthia Carpenter. If I am reading the logic presented in the memo correctly, the licensee would be issued a URI based on whether or not the licensee claimed that the manual actions were part of their CLB and not on whether or not the manual actions would work. Per my read of the memo, it looks like whether

or not the manual actions work only factors into the severity of the violation.

I thought that the staff was going to propose rulemaking to permit manual actions and in the interim was going to pursue a policy that minimized inspection and licensing action on manual actions that the inspections judged would work or were reasonable. If we start issuing NCVs on manual actions that work, some licensees may feel obliged to pursue licensing actions (exemptions/deviations) to restore compliance.

**CC:** Charles Casto; Harold Christensen

**Mail Envelope Properties (3E36C53B.F5C : 20 : 51263)**

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**From:** Charles R. Ogle

**Created By:** CRO@nrc.gov

Recipients	Action	Date & Time
nrc.gov		
ATL_PO.ATL_DO	Delivered	01/28/03 01:00PM
DCP (Charlie Payne)	Opened	01/29/03 12:13PM

Post Office	Delivered	Route
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**Reply Requested:** No  
**Return Notification:** None

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**Subject:** Fwd: Re: DRAFT INSPECTION PROCEDURE ON MANUAL ACTIONS

**From:** Charles Casto  
**To:** Charles Ogle; Charlie Payne  
**Date:** 1/22/03 11:24AM  
**Subject:** Fwd: Re: DRAFT INSPECTION PROCEDURE ON MANUAL ACTIONS



**From:** Doug Coe  
**To:** Charles Casto; Cynthia Pederson; Dwight Chamberlain; Harold Christensen; Richard Crlenjak; Roy Caniano; Wayne Lanning  
**Date:** 1/22/03 10:33AM  
**Subject:** Re: DRAFT INSPECTION PROCEDURE ON MANUAL ACTIONS

✓ Note to DRS Div Directors and Deputies:

Please remind your inspectors that inspection procedure guidance that has been issued for regional comment is not yet officially approved guidance and should not be used as the basis for discussions with licensees. Such draft guidance might contain new information or insights that can be utilized within the context of the currently approved inspection program.

Inspectors must in all cases remain sensitive to avoiding the appearance of imposing any standard or criteria on a licensee on the basis of inspection guidance (note the caution in IMC 2515 para. 2515-08).

In the specific case of manual actions used in lieu of meeting regulatory requirements, the draft inspection guidance is intended to encourage consistency in inspector judgement as to whether such manual actions are a reasonable interim compensatory measure until such time as the licensee effects a permanent resolution as part of their corrective action program or as a result of agency rulemaking action.

Also, based on discussions at the recent Div Dir counterpart meeting and followup discussion between IIPB/SPLB, the attached draft memo is being prepared to help clarify how fire protection manual action findings should be dispositioned within existing ROP/OE procedures/guidance. Please let me know if this draft memo addresses your need for clarification.

Doug

✓>>> Eric Weiss 01/16/03 04:41PM >>>

Doug-

At today's DSSA Staff meeting, Suzie Black asked that I convey to you a request that you remind the regions that they should not use the draft inspection procedure on manual actions until it is issue in final form. I understand that NEI brought this issue before the senior management meeting.

-Eric

**CC:** Bruce Boger; Cynthia Carpenter; David Matthews; David Nelson (HQ-OE); Eric Weiss; Gary Holahan; John Hannon; Laura Dudes; Suzanne Black

# DRAFT

Date

MEMORANDUM TO:

Wayne D. Lanning, Director, DRS, RI  
Charles A. Casto, Director, DRS, RII  
Cynthia D. Pederson, Director, DRS, RIII  
Dwight D. Chamberlain, Director, DRS, RIV

FROM:

Cynthia A. Carpenter, Chief  
Inspection Program Branch  
Division of Inspection and Support Programs  
Office of Nuclear Reactor Regulation

John N. Hannon, Chief  
Plant Systems Branch  
Division of Systems Safety and Analysis  
Office of Nuclear Reactor Regulation

SUBJECT:

DISPOSITIONING FIRE PROTECTION FINDINGS RELATED TO  
MANUAL ACTIONS USED IN LIEU OF SEPARATION REQUIREMENTS

This memorandum reinforces existing Reactor Oversight Program (ROP) guidance related to subject findings, to enhance consistency of their treatment and dispositioning within the ROP.

Situations may arise where a licensee is found to be in non-compliance with separation requirements (e.g., III.G.2), but has procedurally implemented a set of specific manual operator actions to achieve safe shutdown for fires occurring in the associated areas. Under existing ROP guidance (IMC 0612), such an issue must first be determined to be a licensee performance deficiency. If so, it is a finding and if it is determined not to be willful or have impeded the regulatory process, then it must be characterized for significance. If the staff cannot make a determination regarding whether the issue is a performance deficiency (e.g., typically this may arise if the licensee asserts that it is meeting its current licensing basis), and the question cannot be resolved prior to the issuance of the inspection report, then an Unresolved Item (URI) may be opened to track the staff's resolution. A URI can be opened for one of only two reasons: 1) further information or review is needed to determine whether there is a finding, or 2) the Significance Determination Process (SDP) has not yet produced a final result.

If the issue is a finding, then it is tested against the "minor" criteria per IMC 0612 Appendix B. If the finding is greater than minor, then it is characterized by the applicable SDP. In the case where a licensee has implemented manual actions, such actions may be taken into account in the SDP as an interim compensatory measure, similar to a fire watch being stationed when the licensee removes a fire door from service. If the inspector concludes that the manual actions are reasonable, then this could provide sufficient justification that the increase in CDF and LERF risk is negligible and that the finding significance may be characterized as "green." If manual actions were not implemented, or were found not to be reasonable (e.g., could not be implemented as documented, or otherwise were not likely to fulfill their objective), then the SDP should be conducted without crediting these actions. Inspection guidance is being developed to

help improve the consistency of inspector evaluation of reasonableness of manual actions. However application of such inspection guidance in no way provides regulatory approval to allow a licensee to substitute manual actions in lieu of meeting physical separation or other requirements.

If the inspector concludes that the finding significance is green and if the licensee has entered the issue into their corrective action program, then the non-compliance is an NCV and the finding is documented in accordance with IMC 0612 requirements. If the finding is determined to be greater than green, then the non-compliance is an NOV and the finding is documented in accordance with IMC 0612 requirements.

In those cases where manual actions are providing an interim compensatory measure, the licensee corrective action program is expected to track the finding to final resolution. In these cases, final resolution may involve a change to the fire protection regulations, currently being pursued by NRR, that generically provides for some use of manual actions that meet specific criteria. An approved rulemaking plan and related interim enforcement discretion guidance is expected within about one year. Licensees will likely monitor this action closely and if the final rule change does not provide the expected relief for a specific situation, a licensee must either restore full compliance without reliance upon manual actions, or alternatively submit a formal request for relief to the staff.

If you have any questions regarding this, please contact Doug Coe, IIPB at (301) 415-2040 (Email DHC) or Eric Weiss, SPLB at (301) 415-3264 (Email EWW).

cc:

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