

NRC INSPECTION MANUAL

IPAB

INSPECTION MANUAL CHAPTER 0609 ATTACHMENT 1TP

SIGNIFICANCE AND ENFORCEMENT REVIEW PANEL (SERP) PROCESS

Effective Date: November 15, 2016

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0609.01-01 SCOPE

This attachment describes the U.S. Nuclear Regulatory Commission (NRC) procedure for preparing, processing, and finalizing inspection findings determined by the Significance Determination Process (SDP) to have White, Yellow, Red, or Greater than Green (GTG) safety or security significance. Since enforcement decisions are integrated into the SDP, this procedure includes enforcement-related information for clarity and convenience. The Commission's Enforcement Policy, Enforcement Manual, and Enforcement Guidance Memoranda remain the governing documents for enforcement-related activities. This attachment applies to both regional and headquarters offices responsible for conducting inspections in support of the Reactor Oversight Process (ROP) and the overall management of inspection findings for operating reactors.

This document will be used in conjunction with IMC 0609TP, "Significance Determination Process," and IMC 0609 Attachment 5TP, "Inspection Finding Review Board." These procedures are intended to enhance the efficiency of the SDP with an emphasis on improved management oversight and planning of GTG inspection findings involving the initiating events, mitigating systems and barrier integrity cornerstones. The test activity is scheduled to end not later than December 31, 2017.

0609.01-02 THE SIGNIFICANCE AND ENFORCEMENT REVIEW PANEL PROCESS

The Significance and Enforcement Review Panel (SERP) provides a management review of the inspection finding and a preliminary decision regarding the significance characterization, and enforcement recommendations for all inspection findings in which the sponsor proposes a significance characterization of White, Yellow, Red, or GTG. The documentation of Inspection Finding Review Board (IFRB) results provides an input to support efficient SERP decision making. An official agency preliminary significance determination of White, Yellow, Red, or GTG can only be made by a SERP. When necessary, based on the results of a Regulatory Conference or written response provided by the licensee, the SERP provides the management review and a final decision regarding the finding's significance determination and enforcement action, as applicable. During the SERP, panel members will review the inspection finding and reach consensus on:

- a. The safety or security significance of the finding, including the assignment of a preliminary or final color, and
- b. The apparent violation (AV) and the regulatory requirement(s) that should be cited, and associated enforcement action(s), as applicable.

In all cases, the region or responsible NRC office conducting the inspection is responsible for the overall management and processing of inspection findings. Although some findings may be referred to other technical branches of the NRC, the regions or responsible office must maintain full awareness of the status of those findings to ensure that the findings are processed in an effective and efficient manner.

02.01 Preparation for the SERP.

a. For all SDP appendices, the following specific guidance is applicable:

1. If the staff's significance determination of a finding is not complete or the significance determination is complete but a SERP was not able to review and make a preliminary decision prior to the deadline to issue the inspection report, the significance of the finding shall be characterized in the inspection report as "to be determined" (TBD).
2. The IFRB will decide whether a Planning SERP is needed. A Planning SERP will be held in each of the following situations:
 - (a) The Region or responsible office is considering the use of IMC 0609, Appendix M to characterize the significance of a finding unless governing SDP documents explicitly direct the use of Appendix M,
 - (b) The inspection finding involves a licensee performance deficiency that was the proximate cause of an actual initiating event and requires a detailed risk evaluation,
 - (c) The inspection finding involves complex technical issues (e.g., natural hazards) that would require a significant amount of resources (e.g., HQ analysts of specialized expertise) and coordination as determined by the IFRB. Refer to IMC 0609 Attachment 5TP.
 - (d) The inspection finding involves a formal Office of Investigation (OI) and Department of Justice (DOJ) investigation, and the timely resolution of the finding is impacted by the ongoing OI/DOJ investigation.

The Planning SERP will reach consensus on the scope, schedule, methodology, and identify staff that will perform the assessment. The Planning SERP assessment is documented in Section 2A of Exhibit 1 of IMC 609 Attachment 05TP. An additional SERP is required to arrive at a preliminary significance determination.

3. Consistent with the IFRB process, the responsible inspector(s) should clearly articulate the licensee performance deficiency, the more-than-minor criteria that was met, describe how the deficient licensee performance was the proximate cause of the degraded condition, the basis for not screening the finding to Green (only applicable to the SDP Appendices that use screening questions), the proposed safety or security significance (only applicable to SDP Appendices that do not require Senior Reactor Analyst (SRA) support), and any enforcement recommendations. Additional staff in the region and headquarters should provide technical and programmatic support to the inspector(s) as appropriate. The region or responsible office should periodically communicate details involving inspection, proposed enforcement, risk insights, and other pertinent information with technical staff and management in the both the region and

headquarters (i.e., NRR (particularly DIRS/IPAB and DRA/APHB), OE, and NSIR, as needed). The SERP members are responsible for ensuring that the technical staff in their respective organizations have provided sufficient information in a timely manner to support an effective and well-informed regulatory decision.

4. After the region or responsible office has developed their proposed position, it is documented using the IFRB process outlined in IMC 0609 Attachment 05TP. The documentation of IFRB results provides an input to support efficient SERP decision making.
- b. For the quantitative SDP appendices that use core damage frequency (CDF) and large early release frequency (LERF) as metrics, the following specific guidance is also applicable:
1. The regional inspection staff and SRAs should coordinate efforts early in the process to achieve a common understanding of how the deficient licensee performance was the proximate cause of the degraded condition. Sharing information should balance the gained efficiencies of parallel communication with the goal of providing a timely assessment. After the SRA gains a clear understanding of the finding and its relationship to the degraded condition, the risk assessment (i.e., detailed risk evaluation) may be begin.
 2. The detailed risk evaluation may be developed by a single SRA or a collaboration of more than one SRA. Once the evaluation is completed, it shall be peer reviewed by a HQ SRA or other qualified risk analyst with specialized expertise, as appropriate. Only one peer review is required. The peer reviewer should have at least five working days to review the evaluation. Any changes to the evaluation based on recommendations from peer reviewer should be appropriately considered prior to sending documentation to NRR (see section 02.02). The peer review should focus on:
 - (a) Appropriate implementation of current guidance documents (e.g., IMC 0609 attachments and appendices, RASP Handbooks, applicable NUREGs, RGs, and generic communications, and other consensus risk assessment publications or standards. Any alternative approaches to the current guidance documents should have a clear and reasonable technical basis.
 - (b) Reasonableness of significant assumptions made. If there are additional equally valid assumptions, the peer reviewer should make recommendations for consideration in the risk assessment.
 - (c) Appropriate treatment of uncertainty and/or sensitivity evaluations to support risk-informed decision-making.
 - (d) Consistency with similar past SDP risk assessments, as appropriate.
 - (e) Use of best available information.

02.02 NRR Enforcement Coordinator Preparation for the SERP.

The NRR Enforcement Coordinator arranges support and participation by the appropriate management, technical, and project management staff. SERPs are typically held during the scheduled weekly regional enforcement conference call. In scheduling a SERP, the regional enforcement liaison (or staff from NSIR for some security findings) notifies the NRR Enforcement Coordinator and OE of a pending White, Yellow, Red, or GTG finding being processed. All parties should coordinate in scheduling an appropriate date to present the case to the SERP. The NRR enforcement coordinator verifies the availability of NRR SERP members and maintains the SERP calendar.

Normally, the OE SERP member would attend the SERP meeting. However, OE has the option to decline participation if there is full agreement by OE staff on the proposed violation. If the OE SERP member exercises this option, the decision will be deferred to the other SERP members. In these cases, OE retains the responsibility for (1) the documentation of the SERP's decision in the OE strategy form, (2) remain on distribution for all related documents, and (3) remain on concurrence for the final significance letter.

At least five working days (earlier for more complex issues) prior to the SERP, the region or responsible office will provide the NRR Enforcement Coordinator the information developed by the IFRB. The NRR Enforcement Coordinator electronically distributes the information to all headquarters SERP participants.

Both regional and headquarters technical staff should conduct pre-briefings to SERP decision-makers as needed to ensure that the panel members have been afforded an appropriate amount of time to review and understand the information.

02.03 Participation in the SERP.

The principal objective of the SERP is to discuss, review, and arrive at a consensus decision regarding the significance determination of the inspection finding and the appropriate enforcement actions to be taken, as applicable. All members of the SERP, indicated in the table below, will represent their respective organization. Each participating organization has a distinct function, as defined as a role in the table below. If, after the SERP discussion and review, all of the members are aligned, then a preliminary determination has been reached. However, if one or more SERP members still object to the safety or security significance, and/or the enforcement action(s), the SERP should raise the issue to the attention of the appropriate Regional Administrator/Office Director(s) for resolution.

SERP members may request that technical staff be available at the SERP for consultation. Other invited participants may attend the SERP meeting as observers. These participants typically include regional enforcement staff, inspectors, SRA(s), NRR OE Coordinator, and other technical and program support staff (e.g., SDP program lead, risk analysts) and sometimes include the applicable NRR Project Manager and staff from the Office of Nuclear Regulatory Research representative for Accident Sequence Precursor Program related issues and the Office of the General Counsel.

A modified SERP may be used as an efficiency enhancement when all the criteria below are satisfied. This process is expected to be conducted via an email being sent to all SERP members by the Issue Sponsor.

- a. The SERP members agree with the preliminary significance determination and violation documented in the SERP worksheet.
- b. The preliminary significance determination is White. This process is not allowed for Yellow or Red findings.
- c. All SERP members agree to the use of the modified SERP process.

Role	Responsible Organization/Participant
<p>Finding Sponsor</p> <p>Leads the SERP and holds overall responsibility for resolution of the inspection finding, including assuring appropriate SDP results and achieving SDP timeliness milestones. Also leads the presentation of the finding.</p>	<p>Regional or office management representation by the responsible Division Director or Deputy Division Director</p>

<p>Headquarters Technical Spokesperson</p> <p>Provides the headquarters technical position and support with the SDP appendix implementation. Also responsible for ensuring the outcomes are consistent with program office guidelines (i.e., with respect to application of risk information) and regulatory policy.</p>	<p>Applicable Technical Division</p> <p>NRR Division of Risk Assessment (for fire protection, reactor safety, containment, shutdown risk, transportation, ALARA, public and occupational radiation SDPs), Director or Deputy Division Director (or designated Branch Chief);</p> <p>NRR Division of Component Integrity (for steam generator and spent fuel pool SDPs), Director or Deputy Division Director (or designated Branch Chief);</p> <p>NRR Division of Policy and Rulemaking (for B.5.b SDP), Director or Deputy Division Director (or designated Branch Chief);</p> <p>NRR Division of Inspection and Regional Support (for operator re-qualification and maintenance rule SDPs), Deputy Division Director (or designated Branch Chief);</p>
Role	Responsible Organization/Participant
	<p>Office of Nuclear Security and Incident Response, Division of Security Operations (physical protection SDPs), Director or Deputy Division Director (or Branch Chief; Division of Preparedness and Response (emergency planning SDP), Deputy Director for Response (or designated Branch Chief).</p>

<p>Reactor Inspection and Performance Assessment Program Spokesperson</p> <p>Serves as the SERP meeting facilitator.</p> <p>Provides inspection program management, ensures implementation of SERP and outcome are consistent with ROP policy, resolves ROP program issues</p>	<p>NRR Division of Inspection and Regional Support, Director or Deputy Division Director.</p>
<p>Enforcement Spokesperson</p> <p>Responsible for determining the adequacy of NOVs related to the inspection findings either White, Yellow, or Red; and ensures the agreements reached at the SERP are documented on the Strategy Form in accordance with OE policies.</p> <p>Ensures the guidelines within the Enforcement Policy are met.</p>	<p>Headquarters Office of Enforcement, Deputy Director (or Branch Chief).</p>

02.04 SERP Determinations.

Members of the SERP discuss, review, and decide on the finding, the safety or security significance of the degraded condition, to include the assignment of preliminary color, and the AV(s) and, regulatory requirements that should be cited, as applicable. No official agency preliminary significance determination of White, Yellow, Red, or GTG can be made without a SERP review and decision. The SERP can be completed prior to issuing the inspection report but the SERP should be completed within 30 days after the report is issued.

- a. Green: If the SERP concludes that the preliminary significance determination of the finding is Green, the SERP's conclusion regarding enforcement (no violation or NCV) will be documented by OE on the Enforcement Action Tracking System (EATS) Strategy Form. The decision of the SERP will represent a final determination and will be characterized as such in the inspection report.
- b. White, Yellow, Red, or GTG Findings:
 1. If the SERP reaches a consensus that the preliminary significance determination of a finding is White, Yellow, Red, or GTG, the SERP's conclusion will be documented by OE on the Strategy Form (EATS). If the staff does not have sufficient

information to make reasonable assumptions and the assumptions have a significant impact to the preliminary significance result (i.e., can cause the color to vary across multiple thresholds), the preliminary significance should be characterized as GTG. A GTG preliminary determination allows the NRC staff to document the preliminary significance, based on best available information, in a timely manner and officially begins the opportunity to gather additional information through a Regulatory Conference or letter. The preliminary determination letter must clearly identify the information that is needed to improve the fidelity of the significance characterization.

2. For quantitative analyses (e.g., IMC 0609, Appendix A, F, G), the final risk assessment in the IFRB package should clearly identify all of the significant assumptions used in the analysis and an assessment of significant uncertainties and associated sensitivity evaluations. It is not necessary to use Appendix M if existing SDP tools are generally sufficient to risk-inform the finding and associated degraded condition. However, Appendix M may be appropriate if there is not a SDP tool or inputs to an existing SDP tool cannot be adequately determined through existing SDP resources (e.g., NUREGs, industry documents, RASP Handbook guidance, etc.).
3. After the SERP has reached a preliminary decision on the significance determination, the region or responsible office will issue a preliminary significance determination letter to the licensee in the inspection report cover letter or by a separate letter using Enforcement Manual, Appendix B – Standard Formats for Enforcement Packages -Form 3-II, or 3-II(S) for security-related matters. (For security-related findings, the preliminary determination letter will be controlled as per the guidance in Commission Policy SECY-04-0191 for Safeguards Information or Sensitive Unclassified Non-Safeguards Information (SUNSI) and will not be publicly available. C1).
4. The inspection report cover letter or the preliminary significance determination letter offers the licensee an opportunity to submit a written response or to request a Regulatory Conference (see Section 3 for more details). The preliminary significance determination letter must provide sufficient detail for the licensee to understand the basis of the staff's preliminary significance determination. This will enable the licensee to determine if (and what) additional information is needed to better inform the final significance determination. If appropriate, the letter should contain specific questions or request specific information the staff needs to make its final significance determination. In all cases, the correspondence to the licensee should include a date for the licensee to provide the information requested to support SDP timeliness. The licensee should submit materials on the docket at least seven calendar days prior to the Regulatory Conference. The preliminary determination letter shall not include any SDP worksheets or portions of the SERP package. All security-related details shall be provided in a non-public attachment to the letter.
5. If the SERP's preliminary significance is determined to be White, Yellow, or Red and the licensee declines to submit a written response or to arrange a Regulatory

Conference, then the preliminary assessment of significance becomes final, and the region will issue the final significance determination letter (as described in Section 4). The cover letter should include the appropriate paragraph referencing the licensee's letter declining to provide a written response or attend a Regulatory Conference. By declining the opportunity to submit a written response or to request a Regulatory Conference, the licensee relinquishes its right to appeal the final significance determination consistent with the Appeal Process outlined in IMC 0609 Attachment 2.

02.05 Tracking SDP/Enforcement Issues. The SERP determinations are administratively tracked and filed through the use of OE's Enforcement Action Tracking System (EATS). Enforcement Action (EA) numbers are assigned to findings that have been discussed during a SERP, regardless of whether the finding is associated with a violation. Prior to the SERP, an Enforcement Specialist or an Enforcement Coordinator will assign an EA number in EATS. Following the SERP, an Enforcement Coordinator in OE will complete and send a Strategy Form to each SERP member to review for accuracy. The Strategy Form enables tracking of individual findings and potential violations. If there are any disagreements with the content in the Strategy Form, all comments should be provided to OE within three working days.

If additional related findings are identified subsequent to a SERP, additional SERP meeting(s) would be conducted and separate EA tracking number(s) may be assigned. If the findings are determined to be Green, the related EA number(s) should be closed to reflect final disposition and the Strategy Form(s) should be updated to provide the basis for the final determination. Once an EA number has been assigned to a finding (and any related violations), all subsequent documents involving the finding should include the complete EA number (EA-YY-XXX).

0609.01-03 LICENSEE'S RESPONSE – REGULATORY CONFERENCES AND LETTERS

Attending a Regulatory Conference or providing a written response are the options available to a licensee if they want to provide the staff with additional information related to a finding. Both options provide an opportunity for the staff to receive information that was not considered in the preliminary assessment and that may affect the outcome of the final significance determination. The licensee should notify the NRC by phone or other means within 10 calendar days how they intend to respond. Should the licensee decline the opportunity to participate in a Regulatory Conference or provide a written response, the licensee should inform the NRC of this decision in writing (e.g., formal letter, email). The licensee's response, either written or via participation

in a Regulatory Conference, should be completed within 40 calendar days of the licensee's receipt of the preliminary significance determination letter.

03.01 Scheduling and Announcing Regulatory Conferences.

- a. The region or responsible office should inform the licensee whether the Regulatory Conference will be open or closed to public observation and that any handouts at the

conference will subsequently be made available to the public, unless the conference meets the provisions of 10 CFR 2.390 (a)(4) or (6).

- b. If the licensee decides to attend a Regulatory Conference, they should provide any technical and risk information considered applicable to the finding at least seven calendar days prior to the conference. This information must be provided on the docket. All electronic correspondence received from the licensee communicating its official response will be docketed. Any non-sensitive information provided by the licensee during the Regulatory Conference will also be made public.
- c. The licensee should also inform the NRC of any additional information that is under development and not included in the written response or to be presented at the Regulatory Conference. To allow the staff adequate time to review information provided by the licensee, the NRC must receive all additional information that is to be considered when determining the final significance of the finding within a reasonable period of time. The NRC staff will make a risk-informed decision using best available information. Any additional information provided by the licensee will be reviewed in a timely manner consistent with the SDP timeliness goal.
- d. The region or responsible office should promptly notify OE, the NRR Enforcement Coordinator, the appropriate Regional State Liaison Officer, and the EDO Regional Coordinator of the conference date.
- e. The region or responsible office should issue a meeting notice in accordance with regional procedures and report all conferences to the Public Meeting Announcement System as described in NRC Management Directive 3.5, "Attendance at NRC Staff Sponsored Meetings." A copy of the conference meeting notices should be sent to the NRR Enforcement Coordinator. If the finding involves an AV, the meeting notice should also be posted on the OE web site. The region or responsible office should include OEMAIL and OEWEB as addressees. The meeting notice and meeting information should clearly indicate the pre-decisional nature of issues and state that the purpose of the conference is to discuss the preliminary safety significance of a particular finding. The discussion of the finding should be brief, but detailed enough to inform the public of what will be discussed at the conference. If appropriate, the notice should then include a statement that the conference will also address any AV(s) associated with the finding. For security-related findings, the notice should not include any description of the findings.
- f. Conferences in which security findings will be discussed are closed to the public. For security reasons, NRC staff shall participate via Secure Video Teleconference (S-VTC) when Safeguards Information will be discussed.
- g. The region or responsible office should consult with the Office of Public Affairs to determine whether to issue a press release announcing the conference.

03.02 Attendance at Regulatory Conferences. This section provides specific guidance concerning attendance at conferences, including NRC personnel, licensee personnel, media representatives and members of the public, and State government personnel.

- a. NRC Personnel. NRC personnel should attend conferences according to the following guidelines:

The responsible Division Director will designate the appropriate staff that should be in attendance. At the Division Director's discretion and in accordance with security guidelines, NRC staff may participate in conferences by telephone or video.

1. OE staff should participate in all conferences.
 2. NRR and NSIR participation may be requested as necessary.
 3. Regional Counsel may be requested to attend conferences where legal issues may be raised.
 4. All SERP members necessary to make the final decision shall participate either in person or by conference.
- b. Licensee Personnel. The licensee should ensure that they are represented by the appropriate level of management, licensing staff, and technical staff. Legal Counsel may attend the conferences where legal issues may be raised.
- c. Media and Members of the Public. The public attending an open conference may observe but not participate in the conference. Members of the public may record (including videotape) a conference if not disruptive. The purpose of conducting open conferences is to provide the public with opportunities to be informed of NRC activities while balancing the need for the NRC staff to exercise its regulatory and safety responsibilities without undue administrative burden. Following the conference, the staff will be available to respond to questions and comments from the media and members of the public concerning only matters discussed at the conference.
- d. State and Local Officials. When conferences are open to the public, interested State and local officials should also be invited to attend. When other circumstances warrant, the Director, OE, may authorize the Regional Administrator to permit State personnel to attend a closed Regulatory Conference in accordance with the guidance in the Enforcement Manual, Section 4.1.2.4 - State Government Attendance at PECs and Regulatory Conferences.

03.03 Conduct of Regulatory Conferences. The conferences should be conducted according to the following guidelines:

Conferences are normally conducted in the regional offices or in the office that conducted the inspection activity. There may be special circumstances where the agency determines that it would be beneficial to the process to conduct the conference elsewhere. In these cases, the region should consult with NRR, Nuclear Security and Incident Response (NSIR) if needed, and OE before scheduling the conference.

- a. The Regional Administrator or office director responsible for the inspection activity should determine the appropriate member of management to serve as the presiding official at the conference.
- b. The presiding NRC official should communicate the following:
 - 1. Announce the conference as an open or closed meeting
 - 2. Discuss the purpose of the conference
 - 3. Inform the licensee and public attendees that the decision to hold the conference does not mean that the agency has determined the significance of the issues, that violations have occurred, or that enforcement action will be taken
 - 4. Inform the public attendees that the conference is a meeting between the NRC and the licensee and that the meeting is open for public observation, but not participation, and
 - 5. Briefly explain the SDP and enforcement process. Exhibit 1 of this Attachment provides standard opening remarks.
- c. The region or responsible office shall briefly discuss the finding being considered and explain the basis of the agency's preliminary determination (i.e., safety or security significance and AV(s)). The level of detail to be discussed should be commensurate with the complexity and significance of the finding. Most of the detailed information should be included in the inspection report. The discussion should include the assumptions and methods used by the NRC to arrive at the preliminary determination of safety or security significance.
- d. The licensee should discuss its understanding of the facts and circumstances surrounding the significance of the finding and where it agrees and disagrees with the NRC's assumptions and analysis. Any disagreements should be discussed in enough detail for the NRC to fully understand the licensee's basis and any new information introduced. The licensee will notify the region or the responsible NRC office of any additional information under development that was not presented at the conference and the date the information will be received. Any additional information provided by the licensee will be reviewed in a timely manner consistent with the SDP timeliness goal. Once the pertinent facts have been established and understood by all parties, the presiding official must recognize and briefly summarize differences of opinion.
- e. After completing discussions related to the safety or security significance of the finding, addressing any AV(s) and/or discussing applicable corrective actions is appropriate. The licensee should indicate its agreement or explain why it does not agree with the AV(s). The discussion of corrective actions should be limited to the immediate actions taken to mitigate safety or security consequences of the finding. Detailed discussions of long-term
- f. corrective actions should be reserved for the Regulatory Performance meeting and for potential follow-up inspection activities.

- g. Prior to the conclusion of the conference, the participating NRC staff shall conduct a caucus, independent from the licensee and other participants, to determine if there is any additional information required from the licensee.
- h. The presiding NRC official shall provide closing remarks and should remind the licensee and public attendees that the preliminary significance determination and the AV(s) discussed are subject to further review and are subject to change prior to any resulting action. The presiding NRC official shall also make it clear that the statements of views or expressions of opinion made by NRC employees at the conference, or the lack thereof, are not final conclusions.

0609.01-04 POST-REGULATORY CONFERENCE REVIEW

04.01 Post-Conference Review.

The NRC staff that participated in the Regulatory Conference or reviewed a written response shall hold a Post-Regulatory Conference Review to review the technical and risk information provided by the licensee to determine whether any of the information presented changed the significance determination. The Post-Regulatory Conference Review should be a formal meeting but can be completed by teleconference or email. The participants in the Post-Regulatory Conference Review are the same participants as in the SERP. Therefore, the Post-Regulatory Conference Review will enable the SERP members to make a final significance determination.

If the licensee presented new information during the Regulatory Conference or in their written response that affected the final outcome, the region or responsible office will update the original IFRB information affected by the licensee's submittal prior to the Post-Regulatory Conference Review. The region or responsible office will provide a new recommendation of significance to the SERP members at the Post-Regulatory Conference Review and discuss those issues that had a significant effect on the preliminary determination.

If the SERP members, after considering the licensee's additional information, determine that a preliminary White, Yellow, Red, or GTG finding is characterized as Green safety or security significance, the determination is final.

If the SERP cannot reach consensus on the final significance of the finding the SERP shall direct specific actions to reconcile the different views. If a resolution is not achieved within 14 calendar days, the Inspection and Assessment Program Spokesperson, through the appropriate management, will notify the applicable office director, Regional Administrator, and the Director of NRR of the issues and the actions being taken to resolve them.

0609.01-05 ISSUING FINAL SIGNIFICANCE DETERMINATION (AND NOTICE OF VIOLATIONS (NOV) IF APPLICABLE)

05.01 Final Significance Determination Letter and NOV.

The region or responsible office prepares the cover letter transmitting the final assessment results using the standard format in Form 3-III or 3-III(S) for security-related matters, located in the Enforcement Manual, Appendix

B – Standard Formats for Enforcement Packages. The letter includes additional language if an NOV is included. The staff is responsible for ensuring that the NOV and letter is consistent with the guidance in the Enforcement Manual. The letter should effectively and succinctly communicate the NRC safety significance assessment of the findings and any related violations and should include the elements listed below. For security-related findings, the region or responsible office addresses the elements in a non-public enclosure to the cover letter.

- a. A summary of (1) the purpose of the inspection; (2) if and how the finding was reported (e.g., 50.72, LER); (3) when the inspection report related to this action was issued; and (4) if and when (and where) a conference was held, if a conference was declined, or if there was a response to a preliminary determination letter.
- b. A conclusion that the finding represented an issue of safety significance and that a violation occurred (if applicable). A very brief summary of the event or circumstances that resulted in the finding and/or violation, including such issues as the length of time the issue lasted, the proximate cause, and the operational mode of the plant at the time.
- c. Justification for not incorporating into the significance determination licensee perspectives presented at the conference, if applicable.
- d. A statement that the licensee may appeal the staff's determination of the significance of the finding in accordance with Attachment 2 of this Manual Chapter, if applicable. This statement should not be included if the licensee accepted the preliminary determination without contest or declined the opportunity to respond in writing on the docket or request a Regulatory Conference.
- e. A discussion of the related violation(s).
- f. If an NOV is included, a description of whether a response from the licensee is necessary, including any area that deserves special emphasis, such as a provision that the licensee respond if the understanding of the required corrective action is different than that stated.
- g. A statement that the letter and the licensee's response will be made available to the public or that the letter and the licensee's response will not be made public if it contains security-related, safeguards or classified information.

05.02 Final Significance Determination and NOV, Coordination and Review. All final significance determination letters for Yellow and Red findings should be sent to headquarters for concurrence. The Office of Enforcement will coordinate the collection of comments and concurrence from all headquarters reviewers. The SERP will determine if letters transmitting White issues need headquarters' review on a case-by-case basis.

- a. NRR Enforcement Coordinator will ensure appropriate review of the proposed action by appropriate risk program, and technical branches with a focus on the proper characterization of the safety significance of the finding and on the technical accuracy of the violations.
- b. OE will review all final significance determinations that include an NOV and will forward comments to the region indicating where the action was revised and explain any
- c. significant changes. (Refer to the Enforcement Manual for specific guidance on coordination and review of escalated NOV's without civil penalties.)

05.03 Final Significance Determination and NOV Signature Authority.

Final significance determination cover letters associated with White, Yellow, or Red issues should be signed and issued according to the memorandum dated January 17, 2008, "Delegation of Authority for Certain Enforcement Actions to the Regional Administrators" (ML080100183).

05.04 Licensee Notification, Mailing, and Distribution of Final Significance Determination Letters. Final significance determination letters are normally mailed to licensees and States by regular mail. Distribution is made according to the NOV distribution guidance in the Enforcement Manual and regional procedures. The Commission must be provided with an Enforcement Notification (EN) three working days before a final letter containing an NOV is sent to a licensee. EN's are prepared by OE and issuance must be coordinated through the Region or NRR (NSIR) Enforcement Coordinator, as applicable. ENs should also be considered for any final determination without an NOV that has become a matter of public or Commission interest.

END

Exhibits:

Exhibit 1 Suggested Opening Comments for Regulatory Conference

Attachments:

Attachment 1 Revision History for IMC 0609.01TP

Exhibit 1

SUGGESTED OPENING COMMENTS FOR REGULATORY CONFERENCE

After a potentially safety-significant finding is identified and characterized by the Significance Determination Process (SDP) as either White, Yellow, Red, or greater than Green, an opportunity for a Regulatory Conference is offered to a licensee. In this case, [the licensee's name] requested that a conference be held to discuss the issues and their significance.

This conference is OPEN to public observation. Members of the public who are in attendance at this meeting, you should be aware that this is a meeting between the Nuclear Regulatory Commission and [the licensee's name]. Following the conference, NRC staff will be available to answer questions and receive comments from members of the public concerning matters discussed at this conference.

A Regulatory Conference is the last step of the inspection process before the NRC makes its final decision on the significance of the inspection findings. [Using the subject finding provide a brief summary of the SDP and how the process led to the conference].

The purpose of this conference is to allow you to identify your disagreements, in part or all, with facts and assumptions used by the NRC to make the preliminary significance determination, and to allow you to present any clarifications that may assist the NRC in arriving at the most appropriate final significance determination.

We would also appreciate your views as to whether there is any other information that may be relevant to the application of significance determination in this case, including your position on the content and accuracy of the inspection report findings which were provided to you in advance of this conference. If you have any additional information that is under development and is not available to be presented at this Regulatory Conference, please inform us of the nature of the information and the date the NRC can expect to receive it. The NRC must receive all additional information, which is to be considered for the finding, within a reasonable period of time to allow the staff adequate time to review the information. This timeframe must take into account the NRC's goal to complete SDP decisions in a timely manner.

In addition to discussing your views on the safety significance of the finding(s), you may want to present your views on the identified apparent violation(s). Please note that the primary purpose of this meeting is to discuss issues related to the safety significance of the finding(s), which informs the outcome of the apparent violation. But, because a pre-decisional enforcement conference is normally not convened to discuss the apparent violation, any discussion concerning apparent violations and the applicable corrective actions is permitted. It is important to note that the decision to conduct this conference does not mean that the NRC has determined that a violation has occurred. Violations related to the findings being discussed today will be assessed in accordance with the Commission's Enforcement Policy.

I should also note at this time that any statements of view or expressions of opinion made by NRC employees at this conference do not represent final agency determinations or beliefs relative to the matter before us today.

Following this conference, the Regional and NRC Headquarters staff, will reach a significance determination and enforcement decision. The NRC's goal is to issue the final significance determination letter within 90-days of the first official notification describing the finding.

If you have any questions now or at any time during this conference, we would be pleased to answer them.

ATTACHMENT 1

Revision History for IMC 0609.01TP

Commitment Tracking Number	Accession Number Issue Date Change Notice	Description of Change	Description of Training Required and Completion Date	Comment and Feedback Resolution Accession Number (Pre-Decisional, Non-Public)
	ML16110A267 10/28/16 CN 16-028	An initial issuance to include numerous changes made to improve the efficiency of the SDP including: (1) the role of the SERP was modified to focus on the significance of the inspection finding and any related enforcement action(s), (2) Planning SERP details were moved to this procedure from IMC 0609 and the Planning SERP Worksheet was moved to IMC 0609 Attachment 05TP, (3) incorporation of best available information, (4) elimination of SERP worksheets which were moved to IMC 0609 Attachment 05TP, (5) Added references to the Inspection Finding Review Board process and associated documentation, (6), reduction to one SDP peer review performed by HQ, (7) assignment of NRR/DIRS as SERP facilitator, (8) numerous editorial changes to eliminate redundancy and provide succinctness, (9) incorporation of the final SERP into the Post-Conference review, and (10) development of a Table of Contents.	Presentations were made in three regional offices prior to procedure issuance. In addition, question and answer sessions will be conducted shortly after the procedure is issued.	ML16110A260