UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 22, 2022

MEMORANDUM TO: Christopher G. Miller, Director
Division of Reactor Oversight
Office of Nuclear Reactor Regulation

FROM: Philip J. McKenna, Chief
Reactor Assessment Branch
Division of Reactor Oversight
Office of Nuclear Reactor Regulation

Signed by McKenna, Philip
on 12/22/22

SUBJECT: RESULTS OF THE REACTOR OVERSIGHT PROCESS SELF–ASSESSMENT EVALUATION OF TIMELINESS OF GREATER–THAN–GREEN FINDINGS IN THE SIGNIFICANCE DETERMINATION PROCESS

SUMMARY:

A team comprised of staff from the Reactor Assessment Branch (IRAB) in the Division of Reactor Oversight (DRO) performed a review of recently issued potentially greater-than-Green (GTG) inspection findings. The purpose of the review was to identify any potential enhancements to the Significance Determination Process (SDP) that could help improve the timeliness of findings subject to the metric. After completing the review and communicating potential recommendations with both internal and external stakeholders, the review team developed five recommendations for implementation.

Recommendation 1: Revise Reactor Oversight Process (ROP) Self-Assessment metric E-3 (255-day timeliness metric) to not include time when the processing of a potentially GTG finding must be paused for a non-ROP regulatory reason.

Recommendation 2: Improve guidance related to the Inspection Finding Resolution Management (IFRM) process to make it clear that that it is required for all ROP cornerstones.

Recommendation 3: Expand sections of the Inspection Finding Review Board (IFRB) and Significance and Enforcement Review Panel (SERP) forms related to timeliness.

Recommendation 4: Enhance the internal SDP tracking tool with a “timeliness challenged” category for potentially GTG findings.

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Recommendation 5: Reinforce existing program guidance on the use of best available information at each process stage in the SDP.

BACKGROUND:

In response to two consecutive years of yellow performance in the ROP Self-Assessment metric related to SDP completion timeliness, a team of staff from IRAB were assigned to perform a review of recent greater-than-green inspection findings. The team was comprised of the following individuals:

David Aird (Team Lead)	Reactor Operations Engineer, NRR/DRO/IRAB
Alex Garmoe	Senior Reactor Analyst, NRR/DRO/IRAB

The objective of the review was twofold:

1. Identify any common causal factors affecting SDP timeliness and develop recommendations to improve timeliness, and
2. Identify any other opportunities for improvements to the SDP keeping in mind the NRC's Principles of Good Regulation.

Inspection Manual Chapter (IMC) 0307, "Reactor Oversight Process Self-Assessment Program," describes the ROP Self-Assessment Program. Its purpose is to evaluate whether the ROP meets its pre-established goals and intended outcomes by appraising the uniformity and effectiveness of regional and program office ROP implementation, evaluating effectiveness of significant ROP changes, and performing comprehensive reviews of selected ROP program areas to verify adherence to ROP program governance documents. The program uses a mix of data-driven monitoring efforts and traditional team-based retrospective reviews to accomplish the above purpose.

This SDP timeliness review is consistent with Element 1, Subsection C, "ROP Program Area Evaluations," of the ROP Self-Assessment Program. Specifically, the ROP program area leads conduct their respective program area evaluations based on ROP performance metrics data and analysis, ROP data trending insights, other ROP program execution data, internal (e.g., regional staff and resident inspectors) and external (e.g., ROP monthly public meeting discussions with Nuclear Energy Institute (NEI) staff or members of the public) feedback, and other relevant information.

Additionally, this SDP timeliness review is consistent with Element 1, Subsection A, "Objective Performance Metrics," of the ROP Self-Assessment Program. A detailed description of these performance metrics is contained in IMC 0307, Appendix A, "Reactor Oversight Process Self-Assessment Metrics and Data Trending." A metric is considered Yellow if it falls within the specified range that warrants further evaluation and potential staff action to correct before the acceptance criterion has been exceeded. Metric E-3, SDP Completion Timeliness for Potentially Greater-than-Green Findings, was identified as Yellow in SECY-21-0038, "Reactor Oversight Process Self-Assessment for Calendar Year 2020," (ML21057A137) and SECY-22-029, "Reactor Oversight Process Self-Assessment for Calendar Year 2021," (ML22033A288). As such, this review constitutes the further evaluation and potential staff action in response to the yellow metric. Further, it is anticipated that metric E-3 will be Yellow for calendar year 2022.

METRIC HISTORY AND PAST PERFORMANCE:

On February 24, 2000, the staff issued SECY-00-0049, "Results of the Revised Reactor Oversight Process Pilot Program." The resulting staff requirements memorandum (SRM), issued on March 28, 2000, approved initial implementation of the ROP as recommended by the staff. The initial implementation of the ROP began on April 2, 2000. In a follow up SRM issued on May 17, 2000, the Commission directed the staff to report on the ROP results after the first year of implementation. The staff did so and documented the results in SECY-01-0114, "Results of the Initial Implementation of the New Reactor Oversight Process," issued June 25, 2001. SECY-01-0114 also noted the staff's intention to continue to perform an annual self-assessment of the ROP.

Metrics were developed to monitor each major component of the ROP, as well as metrics of a more general nature intended to gauge overall ROP performance. In most cases, success was defined as an improving trend. At least initially, quantitative success criteria for many of the performance metrics could not be developed, because of the newness of the ROP and the resultant lack of data needed to establish thresholds. However, a metric measuring SDP timeliness was established in this initial phase of ROP Self-Assessment.

The initial version of the metric measuring SDP timeliness, established in 2001, is below:

> ***SDP-10 SDP Timeliness[1]***
>
> ***Definition:*** *For each quarter, count the number of inspection findings that are either:*
>
> *1) In the SERP process, were open for any portion of that quarter, and are more than 90 days from the exit meeting date.*
>
> *2) Received by an NRR technical branch for SDP assistance and are more than 90 days from the exit meeting date or the date received by that branch, whichever is earlier.*
>
> *3) Otherwise documented in an inspection report as an unresolved item, were not counted in either of the above categories, and are more than 90 days from the exit meeting date.*
>
> ***Criteria:*** *All SDP results that are counted per the criteria above should be finalized within 90 days of the exit meeting.*

As experience was gained both in terms of executing the SDP and understanding the intent of the metric, revising the metric occurred approximately every four years. A high-level summary of metric revisions included:

- In 2002, a percentage-based threshold was introduced (75% goal), and a progression was established over the following several fiscal years (FY) to account for the newness of the SDP. The metric was also revised to limit the scope to only those finalized with greater-than-green significance.

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[1] This version of the SDP timeliness metric is found in SECY-02-0062. The original IMC 0307 issued on or about April 12, 2001, likely contains this initial version in Attachment 1.

- In 2006, the reference to Unresolved Item was replaced with Apparent Violation. The criteria were adjusted to reflect the final 90% target after progressing 5% per year from 75%.
- In 2013, a very minor revision to the metric was implemented which clarified that findings with a pending significance in addition to apparent violations, should be completed within 90 days.
- In 2015, in a shift to offer a more graded approach to evaluating ROP performance metrics, the metric included green, yellow, and red performance bands still with a 90-day goal. Specifically, Green – greater than or equal to 95% timely; Yellow – greater than to equal to 90% timely and less than 95% timely; Red – less than 90% timely. This change made it more difficult to achieve the highest level of performance since the target was now 95% for green metric performance.

The present-day metric was established in calendar year (CY) 2020. This was the most significant change associated with the SDP timeliness metric since the beginnings of the ROP and was the product of the 2019 holistic review of the ROP Self-Assessment Program (reference SECY-19-0037 and SECY-20-0039). Two metrics, the 90-day SDP metric and a 120-day performance deficiency metric, were combined into a single 255-day metric tracking SDP completion from the identification date until the final significance determination letter. The additional 45 days accounts for the time to issue an inspection report documenting the performance deficiency, which is tracked via a separate ROP Self-Assessment metric. Additionally, the metric criteria were changed from percentage-based to integer-based as described below:

> ***E-3 SDP Completion Timeliness for Potentially Greater-than-Green Findings***[2]
>
> ***Definition:*** *The time from the identification date (i.e., the date the issue of concern was brought to the licensee's attention by the NRC, the date the performance deficiency was self-revealed, or the date the licensee documented the condition resulting from the performance deficiency in the corrective action program) to the date a final significance determination is issued for all potentially greater-than-green findings is within 255 days.*
>
> ***Criteria:*** *Green – less than or equal to one finding untimely; Yellow – 2 or 3 findings untimely; Red – 4 or more findings untimely.*

The review team searched publicly available documents to ascertain historical metric performance. This data is available on the NRC public website at the following link: https://www.nrc.gov/reactors/operating/oversight/program-evaluations.html

In summary, meeting the SDP timeliness metric has been a challenge since the start of the ROP. Table 1 provides an overview of the performance in each year. Note that consistency with respect to the data available in each metric report varied.

Table 1: SDP Timeliness Historical Performance

Year	Metric Performance	Data/Notes	Extrapolation Of 255-day Metric
FY2001	Not Met	3 misses for 90-day. Target 100%.	Yellow. 2 misses.
FY2002	Not Met	57% met for 90-day. Target 100%.	Red. 8 misses.

[2] ML19274C401

FY2003	Not Met	73% met for 90-day. Target 75%.	Red. 10 misses.
FY2004	Not Met	48% met (14 out of 29) for 90-day. Target 80%.	Red. 10 misses.
FY2005	Not Met	68% met for 90-day. Target 85%.	Red. 6 misses.
FY2006	Met	96% met for 90-day. Target 90%.	Red. 8 misses.
FY2007	Met	100% met for 90-day. Target 90%.	Red. 5 misses.
CY2008	Met	100% met for 90-day. Target 90%. Switch to CY metric.	Red. 4 misses.
CY2009	Met	100% met for 90-day. Target 90%.	Red. 9 misses.
CY2010	Met	93% met (13 out of 14) for 90-day. Target 90%.	Red. 12 misses.
CY2011	Met	100% met (13 out of 13) for 90-day. Target 90%.	Red. 7 misses.
CY2012	Met	90% met (27 out of 30) for 90-day. Target 90%.	Red. 10 misses.
CY2013	Met	95% (21 out of 22) for 90-day. Target 90%.	Red. 6 misses.
CY2014	No ROP Self-Assessment	Suspended reporting for this year. Based on a retrospective review of the data, the metric would have been met at 92% (13 out of 15). Target 90%.	Red. 15 misses.
CY2015	Red	88% (15 out of 17) for 90-day. Target 95%.	Red. 7 misses.
CY2016	Green	100% for 90-day. Target 95%. 120-day metric was Yellow at 75%. Target 90%.	Yellow. 2 misses.
CY2017	Yellow	92% for 90-day. Target 95%. 120-day metric was Red at 73%. Target 90%.	Red. 5 misses.
CY2018	Green	100% (3 out of 3) for 90-day. Target 95%.120-day metric was Green.	Green. 1 miss.
CY2019	Red	0% (0 out of 1) for 90-day. Target 95%. 120-day metric was Green.	Green. 1 miss.
CY2020	Yellow	3 misses out of 4. 255-day. Target (Green) no more than one missed.	-
CY2021	Yellow	2 misses out of 3. 255-day. Target (Green) no more than one missed.	-

There are several conclusions from the information in Table 1. When the SDP was first introduced at the start of the ROP, the performance goals were high. Considering there is a period of learning and familiarization with any new process, it is not surprising that the performance goals were not being met. Plans were implemented to improve the process with lessons learned as well as applying a graded approach to the performance metric. After about 5 years of SDP implementation, performance reached the target goals and was generally consistent for the next decade.

In 2015, the metric was changed from binary (Met/Not Met) to a graded color approach. The target for Green was increased to 95%. It would be somewhat expected that a decline in measured performance might result. The resultant decline was aided by a reduction in the overall number of findings subject to the metric (the denominator) starting in 2018. To attempt to account for the lower number of findings, the metric was revised from percentage-based to integer-based.

Also depicted in Table 1, in the rightmost column, is a hypothetical extrapolation of the present-day 255-day integer-based metric. In most years, the current metric definition would not have been effective in characterizing the performance of the SDP as it related to timeliness. While not depicted, an analysis comparing the hypothetical use of a percentage-based vs. integer-based metric against the reported data in each year showed that integer-based would result in an equivalent or better metric result. This is especially true in years with a lower number of potentially GTG findings. After reviewing the metric history and past performance, as well as exploring hypothetical scenarios with the reported data, the review team does not feel a change to the metric criteria, in terms of performance bands or the 255-day goal, is warranted.

DATA REVIEW AND DISCUSSION:

The scope of the review included all potentially GTG findings issued beginning in CY2018. Several findings were issued late in CY2022 that were not included in the data analysis; however, these findings were all issued timely. In summary, 17 findings were analyzed as part of this review. There was a mix of findings that both met and missed the 255-day timeliness goal as defined by metric E-3 in IMC 0307, Appendix A, “Reactor Oversight Process Self-Assessment Metrics and Data Trending.” Of the 17 analyzed findings, 11 exceeded the metric. The contributing causes included: additional time necessary to develop the performance deficiency, investigations outside of the SDP, first-of-a-kind issues, deterministic flowchart interpretations, and required time to review licensee provided information. A single common causal factor was not identified; however, the proposed recommendations aim to broadly improve several areas of both the process itself and the metric definition.

For completeness, the findings reviewed, identified by Enforcement Action (EA) number are shown in Table 2.

Table 2: List of Findings Reviewed

EA #	Reactor Name	EA #	Reactor Name
EA-21-170	Columbia	**EA-19-112**	Vogtle 1 & 2
EA-21-176	Davis-Besse	**EA-19-130**	Browns Ferry 1, 2 & 3
EA-21-155	Davis-Besse	**EA-18-182**	Watts Bar 1 & 2
EA-21-105	Davis-Besse	**EA-18-104**	Clinton
EA-20-138	FitzPatrick	**EA-18-036**	Oconee 1, 2 & 3
EA-20-094	Grand Gulf 1	**EA-18-107**	Peach Bottom 2 & 3
EA-20-081	Point Beach 1 & 2	**EA-18-008**	Davis-Besse
EA-20-004	Clinton	**EA-17-203**	Clinton
EA-20-057	Surry 2		

Also considered by the review team were overall process changes since the start of the ROP that may influence the timeliness of issued GTG findings. The present-day SDP is largely reminiscent of the SDP at ROP inception, though process revisions based on experience have occurred on several occasions and have introduced additional granularity to the process. Since

ROP inception, the dispositioning of issues has first involved an issue screening process to determine whether the issue is a performance deficiency and whether it is minor, followed by the SDP to determine the proper significance characterization of the finding. Any determination that a finding is or may be GTG has necessitated approval by a SERP, the licensee has always been afforded the opportunity to respond to a preliminary characterization in writing or via a regulatory conference, and once a final GTG finding is issued, the licensee has been afforded an opportunity to appeal provided certain appeal criteria are met.

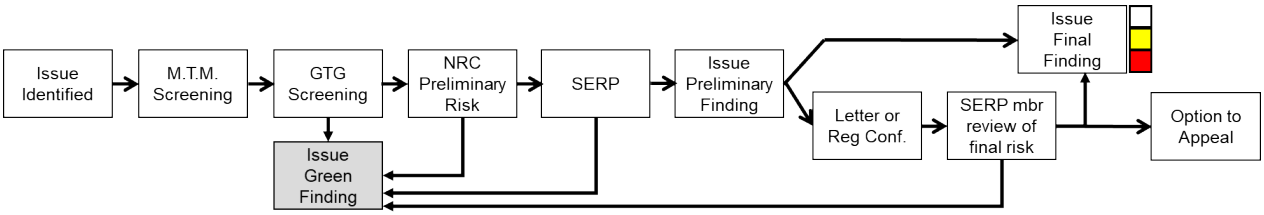

Figure 1: SDP in the early 2000s

The SDP has, since ROP inception, been governed by IMC 0609 with attachments and appendices providing more specific guidance for certain portions of the SDP. These attachments and appendices include topics such as SERP guidance, criteria to qualitatively disposition an issue as Green, guidance for evaluating the significance of issues that are not qualitatively dispositioned as Green, how to evaluate issues for which an appropriate tool is not available, and criteria and guidance for handling SDP appeals.

Significant changes in the process are shown via green shaded boxes in the following figures. While completing a preliminary detailed risk evaluation (DRE) is not a new step, the guidance surrounding DREs has significantly changed. Most notably, in the early years of the ROP, plant-specific workbooks were used in a Phase 2 analysis, and use of Standardized Plant Analysis Risk (SPAR) models and a Phase 3 analysis was (1) not required, (2) did not need to be a significant effort if performed, and (3) could be a quick peer-check of the Phase 2 result. In reality, staff involved in the SDP in those days indicated that it was not typical to finalize an issue based on Phase 2 workbooks without a significant confirmation via Phase 3.

Other process changes included the option of holding a Planning SERP to allow for organizational decision-making in situations where a final significance determination may take longer than the timeliness goal to achieve. Specifically, the 2005 revision to IMC 0609[3] introduced the concept of a Planning SERP as a necessary step for findings that may challenge the timeliness metric.

[3] ML052790205

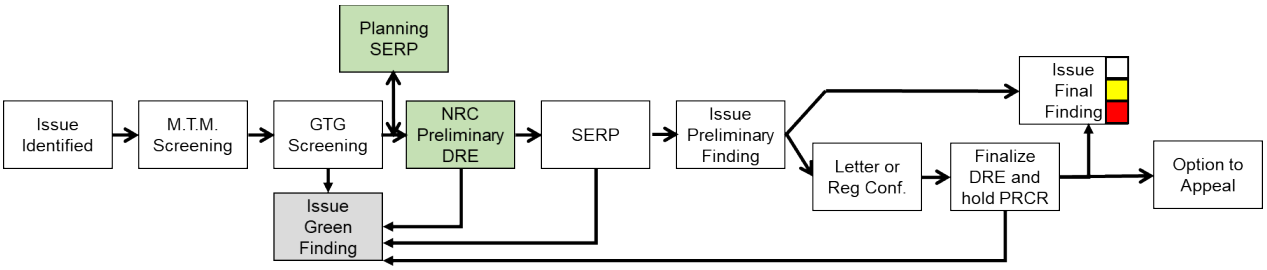

Figure 2: SDP after 2005 revision to IMC 0609

By the 2010 timeframe, the idea of Phase 2 workbooks was essentially obsolete and DREs were being performed via well-developed SPAR models. Significant effort has continued to further develop SPAR models and to incorporate external events and flexible coping strategies, for example. As a result of several independent reviews of the ROP and SDP in the early 2010s, process revisions were implemented in 2016 that included creation of the IFRB, whose purpose was to gain alignment on the specific performance deficiency and the plan and required resources for conducting a significance evaluation. The IFRB was part of a larger suite of changes aimed at streamlining the process and improving timeliness, which included the creation of a 120-day timeliness goal to finalize a performance deficiency and eventually the present-day 255-day goal to finalize issues.

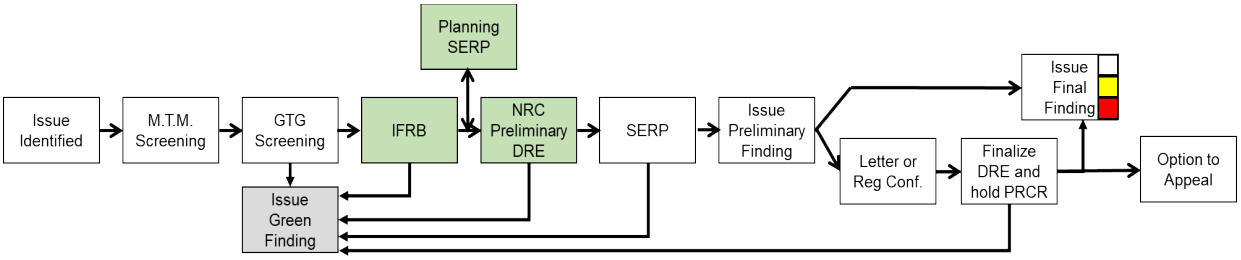

Figure 3: SDP in 2022

Overall, the SDP is largely reminiscent of the original structure when the ROP was first implemented. There have, however, been several additions to the process and revisions to the tools used for evaluating issue significance. The introduction of IFRBs and Planning SERPs, while intended to improve predictability and stability of issue evaluation, also require additional resource expenditure. Additionally, the tools used for performing DREs incorporate far more information that have made them much more complex and comprehensive. All this considered, the review team did not identify any specific process changes in recent years that are negatively impacting SDP timeliness with any consistency.

STAKEHOLDER ENGAGEMENT:

The review team conducted this evaluation in a systematic and iterative way and communicated the progress with both internal and external stakeholders on several occasions. Internally, the status, data analysis, and draft recommendations were discussed with NRC staff and management in the program offices and the regions. Examples include Senior Reactor Analyst counterpart meetings, the September 2022 Division Director counterpart meeting, bi-weekly management conference calls, and other individual management briefs. Externally, NRC staff presented the status of this review at three separate ROP public meetings. Those presentations are publicly available (ML22144A257, ML22269A480, and ML22311A546). The NRC received a

letter from NEI on November 16, 2022, providing comments on this SDP timeliness review (ML22321A315). By soliciting input from all stakeholders, the review team feels that there is consensus that the final proposed recommendations are understood, well-developed, and will be impactful in improving the SDP.

RECOMMENDATIONS AND CONCLUSIONS:

Timeliness in the SDP has been a consideration and a challenge since the beginning of the ROP. Timeliness is one of the key attributes of the SDP as identified in IMC 0308, Attachment 3, "Technical Basis for Significance Determination Process." Being timely helps in maintaining public credibility and supports the NRC's Principles of Good Regulation – specifically, the principles of Openness, Efficiency, and Clarity.

The review team also acknowledges that the SDP is a risk-informed process and that uncertainties surrounding the final significance determination of a performance deficiency will always exist. IMC 0308, Attachment 3 addresses this concept with the following statement:

> *Because the SDP assesses licensee deficient performance that occurred in the past and is most often immediately corrected, SDP decisions may proceed, particularly in the case of risk-informed SDPs, with a degree of residual uncertainties that may be greater than those uncertainties considered acceptable for NRC licensing decisions which, for example, might affect the risk of the plant throughout its remaining lifetime.*

While timeliness is important, the final significance determination needs to be reached in an objective, scrutable, and technically defensible manner. The guidance in IMC 0609 along with its attachments and appendices provides a risk-informed framework for achieving that end. The review team found no examples where timeliness was prioritized over the other SDP attributes and the fact that 100% timeliness compliance is not a requirement to achieve green metric performance reinforces this idea.

The SDP is ultimately an inspection planning tool. Additionally, it is recognized that resource expenditures on behalf of the NRC and the licensee should be commensurate with the risk. Again, IMC 0308, Attachment 3 affirms this concept with the following statement:

> *The resource burden to perform an SDP analysis is normally considered appropriate if it increases stakeholder understanding of the basis for potentially risk significant conditions, especially when an inspection finding is believed to be greater than Green. However, it is appropriate due to SDP timeliness considerations for the staff to cease further effort to refine or review an analysis, acknowledge the limitations and uncertainties, and proceed to a final determination using best available information and reasonable technical or probabilistic judgments. When making the decision to continue further review, especially when the additional review will cause an issue to be untimely, it is essential for the analysts and decision-makers to keep in perspective that the purpose of the SDP assessment is to determine what action the staff should take (e.g., supplemental inspection) as a result of the inspection finding. Experience with the SDP since its inception has shown that the resources expended for additional reviews are often not commensurate with the final risk significance determination of the degraded condition and the additional actions taken by the staff.*

The review team assessed these final recommendations both individually and collectively against the Commission notification criteria in Management Directive 8.13, "Reactor Oversight

Process." The staff intend to notify the Commission after implementation, using an appropriate method. In developing these final recommendations, the review team considered the NRC's Principles of Good Regulation as described on the NRC public website at the following link: https://www.nrc.gov/about-nrc/values.html

Recommendation 1: Revise ROP Self-Assessment metric E-3 (255-day timeliness metric) to not include time when the processing of a potentially GTG finding must be paused for a non-ROP regulatory reason.

This recommendation to pause the SDP metric clock in certain situations (e.g., investigations into potential wrongdoing, etc.) is consistent with other past agency metrics related to ROP implementation. Ultimately, three of the 11 late findings since 2018 had an element outside of the SDP that was the primary cause of exceeding the in-place SDP metric at the time. The SDP metric should measure performance of each part of the process within control of NRC staff and management in the inspection and assessment areas. It is important to note that this recommendation is intended for situations in which some other activity, such as those conducted by the Office of Investigations, is necessary to determine whether a performance deficiency occurred. This is not intended to circumvent or replace the dual-path option that allows a finding to be processed while the associated enforcement action is on hold for some other reason. During the review, there were suggestions to pause or extend the metric clock for complex issues. The review team does not recommend pausing the metric clock for more complex or higher significance (i.e., Yellow, or Red) findings unless there is an appropriate non-ROP regulatory reason. That approach would not be consistent with longstanding past practice. This recommendation is consistent with the principle of Clarity.

Recommendation 2: Improve guidance related to the IFRM process to make it clear that that it is required for all ROP cornerstones.

In general, issues that do not screen to Green should continue to an IFRB regardless of the cornerstone. The objectives of an IFRB include: (1) alignment on the final performance deficiency, (2) discussion on schedule and resources needed to determine the preliminary significance, and (3) establishment of a management sponsor and developing messages to communicate to the licensee. While current guidance in IMC 0609, Attachment 5, "Inspection Finding Review Board" does not preclude any potential GTG finding from going to IFRB, several findings that did not meet the timeliness metric did not have an associated IFRB.

Since the implementation of IFRM in 2017, the ROP cornerstones of Emergency Preparedness, Public Radiation Safety, Occupational Radiation Safety, and Security typically do not implement IFRBs despite the current guidance providing the option to do so. Conducting an IFRB does not guarantee timely issuance of the finding, but the benefits in terms of planning, communicating, and managing actions leading to a preliminary significance determination are important. The review team did not identify any example where the administrative burden in preparing for or conducting an IFRB contributed negatively to timeliness. It is expected that findings in the Security cornerstone can continue to utilize a Security Issue Forum (SIF) in place of an IFRB if the SIF achieves all the tasks an IFRB would have accomplished, including assignment of a designated division-level manager as the single point of contact for the issue, and the overall process for dispositioning the issue should otherwise follow the IFRM process. Conducting a SIF in lieu of an IFRB was an outcome of the IFRM effectiveness review in 2018. As part of this SDP timeliness review, the team observed several SIFs and determined that their intent to accomplish the IFRB objectives was generally met. This recommendation is consistent with the principle of Efficiency.

Recommendation 3: Expand sections of the IFRB and SERP forms related to timeliness.

The IFRB form is Exhibit 1 in IMC 0609, Attachment 5, “Inspection Finding Review Board,” and the SERP form is Exhibit 2 in IMC 0609, Attachment 1, “Significance and Enforcement Review Panel (SERP) Process.” This recommendation aims to increase discussion during these important meetings about the path forward in completing the final significance determination within the 255-day timeliness goal. Both forms already include a section on timeliness. These sections should be expanded to include a discussion on possible scenarios that could negatively impact the timeline, even for those findings expected to meet the metric. Additionally, when conducting the SERP, the DRO representative should facilitate this enhanced discussion on timeliness with inputs from all stakeholders. This recommendation is consistent with the principle of Efficiency.

Recommendation 4: Enhance the internal SDP tracking tool with a “timeliness challenged” category for potentially GTG findings.

The SDP tracking tool is a non-public internal tracking spreadsheet. The status of active SDP issues is discussed on a bi-weekly basis with NRC regional and headquarters management using this tool as an aid. This recommendation will apply a consistent approach to identifying earlier those issues that may challenge the 255-day timeline. One method to assist in early identification could be to establish a threshold that, based on experience, potential findings that enter this category are more often untimely by the final significance determination date. Potential findings that have not been discussed with the licensee at an exit meeting by 120 days since identification could be an appropriate threshold. This recommendation is consistent with the principle of Efficiency.

Recommendation 5: Reinforce existing program guidance on the use of best available information at each process stage in the SDP.

The current definition of best available information as it relates to the SDP is found in IMC 0609, “Significance Determination Process,” which states:

> *Best Available Information – Information that is accessible, applicable, and ready for use at the time of the review to determine the safety significance of the inspection finding. It is important that the NRC make appropriate and timely decisions on inspection findings in order to ensure that findings are appropriately considered in the assessment process and to communicate the results of inspection findings to the public in a timely manner. To accomplish this, it is expected that both licensees and the NRC will use information that is most reflective of the circumstances associated with the inspection finding and is available at the time of the significance determination.*

Oftentimes the concept of best available information is paired with the more general concept of communication. Communication between licensee staff and NRC staff is encouraged at all stages of the SDP. Interactions between the licensee and NRC staff (e.g., resident inspectors and NRC senior reactor analysts) are important and should occur early in the process – and stakeholders agree that those conversations are happening early and often. Dialogue and information sharing supports the fundamental SDP attribute of scrutability and the NRC’s Principles of Good Regulation. For findings that proceed through the Inspection Finding Resolution Management process, NRC senior management communicate key messages early with licensee senior management. The intent of this recommendation is not to broadly restrict

the type of information that can be provided by the licensee, but to ensure that the information is made available in a way that supports the established SDP timeline. Consistent with both IMC 0609, Attachment 1, “Significance and Enforcement Review Panel (SERP) Process,” and IMC 0609, Attachment 2, “Process for Appealing NRC Characterization of Inspection Findings (SDP Appeal Process),” the NRC will consider all information provided by the licensee on the docket. This recommendation is consistent with the principle of Reliability.

SUBJECT: RESULTS OF THE REACTOR OVERSIGHT PROCESS SELF–ASSESSMENT EVALUATION OF TIMELINESS OF GREATER–THAN–GREEN FINDINGS IN THE SIGNIFICANCE DETERMINATION PROCESS DATED: DECEMBER 22, 2022

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