

# NRC INSPECTION MANUAL

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## INSPECTION PROCEDURE 92702

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FOLLOW-UP ON TRADITIONAL ENFORCEMENT ACTIONS INCLUDING VIOLATIONS, DEVIATIONS, CONFIRMATORY ACTION LETTERS, AND ORDERS

Effective Date: 01/01/2021

PROGRAM APPLICABILITY: IMC 2201 App C, 2504 App A, 2504 App B, 2514, 2515 App C, 2561 App B, 2600 App B, 2602, 2641

### 92702-01 INSPECTION OBJECTIVES

**01.01** To determine that adequate corrective actions have been implemented for traditional enforcement actions including violations, deviations, Confirmatory Action Letters (CALs), and Orders. To verify that the **causal factors, extent-of-condition, or extent-of-cause** of these enforcement actions have been identified, that their generic implications have been addressed, and that the licensee's programs and practices have been appropriately enhanced to prevent recurrence.

**01.02** To ascertain whether the actions taken by the licensee or individual address the commitments of a CAL or Order.

**Note:** This inspection procedure (IP) is not intended to be used to follow-up on any Reactor Oversight Process (ROP) findings. This procedure is only applicable to traditional enforcement actions.

### 92702-02 INSPECTION REQUIREMENTS

**02.01- Documentation Review.** Determine which **traditional enforcement action** responses are to receive an onsite follow-up inspection based on their safety or security significance and complexity, inherent inadequacy, or apparent weaknesses in license administrative or management controls. Follow-up will be performed for all traditional enforcement **actions that result in the issuance of a Notice of Violation**, for all willful violations and for all Orders. **Follow-up for Severity Level IV Non- Cited Violations (NCVs) will be performed as deemed necessary.** CALs may or may not require follow-up inspection to verify completion of the specified licensee commitments and actions.

The documentation review should include relevant inspection reports, inspection report transmittal letters, Notices of Violations or Deviations, CALs, Orders, licensee response letters to enforcement correspondence, minutes of related enforcement meetings with the licensee, and any other agency records of communication on the issue with the licensee.

**For each item in a CAL or Order:**

Identify licensee commitments and actions. Select a sample of licensee activities that are indicative of the actions the licensee committed to accomplish in responses to the CAL or Order and determine if the actions taken meet the commitments described in the CAL or the requirements in the Order.

For all traditional enforcement actions including violations, deviations, CALs, or Orders:

- a. Review licensee responses to traditional enforcement actions to determine whether the licensee responses and stated corrective and preventive actions were timely and appropriate.
- b. Evaluate whether the responses describe the conduct of an investigation to determine causal factors (i.e. root cause analysis) and implementation of any appropriate changes in training or procedures.
- c. Assess whether generic implications were addressed and whether the licensee programs and practices have been enhanced where appropriate to prevent recurrence.

02.02 Onsite Inspection. As necessary, conduct an onsite inspection of the selected traditional **enforcement actions** (i.e. violations, deviations, CALs, and Orders) with respect to timeliness, completeness, and adequacy of licensee actions in the following areas. Where appropriate, these inspections are to be actual physical verifications of equipment and processes.

- a. Corrective Actions. Determine whether:
  1. Licensee management has assigned responsibility for implementing corrective actions, including any necessary changes in procedures and practices. **For CALs and Orders, determine whether licensee management has forwarded copies of the CAL or Order and any needed instructions to appropriate on-site management representatives.**
  2. **For CALs and Orders verify that operations are being conducted in accordance with the order, or the requirements have been incorporated into the license.**
  3. **Corrective actions, as described in the licensee's response to the traditional enforcement actions, have been fully implemented and were effective in addressing the issues that resulted in the enforcement action.**
  4. The licensee has posted copies of enforcement correspondence for radiological working conditions as required by 10 CFR 19.11.
  5. Follow-up actions were initiated for deviations noted in any recent Quality Assurance (QA) audits conducted by the licensee of the inspection area in which traditional enforcement actions were identified.
- b. Causal Analysis. Review adequacy of licensee analysis.
- c. Generic Implications Analysis. Review adequacy of licensee analysis.

- d. QA Program Procedures and Practices Changes. For activities performed to satisfy a construction inspection program, determine that the licensee's review of the QA program evaluated the program's scope and effectiveness.

92702-03      **INSPECTION GUIDANCE**

**03.01** General Guidance. This inspection procedure provides a mechanism to perform in-office and on-site follow-up inspection of traditional enforcement actions.

10 CFR 50, Appendix B, “**Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants**” may form the regulatory basis for many enforcement actions. Licensee commitments that form the basis for deviations may have been made during the licensing process or may have been made in written correspondence to the NRC after receipt of the plant operating license. **For fuel facilities, failure to meet the performance or reporting requirements of 10 CFR 70, “Domestic Licensing of Special Material” other applicable regulations, or license conditions stated in the license are examples that may form the regulatory basis of enforcement action.**

In accordance with 10 CFR 2.201, “Notice of Violation”, enforcement sanctions typically require written explanations and statements of reply concerning corrective actions, steps taken to prevent recurrence, and a schedule for completion of corrective and preventive actions. Specific responses or actions may be required in other enforcement sanctions. The inspector should carefully review the enforcement actions and inspection report transmittal letters which may contain NRC perceptions of, and concerns with, licensee performance. Such statements are valuable background information.

The NRC inspection program places strong emphasis on the inspection of licensee performance as the basis for determining the overall adequacy of the implementation of licensee programs. Thus, when a deficiency in the licensee performance is identified, and especially when repetitive conditions occur, a key element to be reviewed is the failure of the licensee program to identify and correct the deficiency. Where licensee corrective actions for NRC identified deficiencies are not adequate, additional inspections (such as IP 71152, Problem Identification and Resolution for power reactors and selected portions of IP 88005, Management Organization and Controls **and other applicable inspection procedures**, for fuel facilities) may be warranted to assess the adequacy of the licensee corrective actions for internally identified problems.

**CALs and Orders are described in NRC’s Enforcement Policy. CALs and Orders are tools used by NRC as a means for conforming or directing licensee or individuals’ actions in order to remove significant concerns about health and safety, the environment, safeguards, or security.**

**A CAL is an administrative mechanism to confirm a licensee’s or individual’s voluntary agreement to take certain actions. An Order is a written NRC directive to modify, suspend, or revoke a license; to cease and desist from a given practice or activity; or to take some other action. Inspectors should note that unlike commitments made by the licensees in response to violations, order requirements are legally binding obligations.**

**This inspection procedure should be followed if it is determined that a follow-up inspection is necessary to close a CAL; to verify that a licensee or individual has met the requirements of an Order; to review the licensee’s response for the adequacy of the corrective actions, including**

whether the license has properly identified the causes for violations that resulted in the issuance of a Notice of Violation; for follow-up inspection on willful violations; and as deemed necessary for follow-up on NCVs.

**03.02 Specific Guidance:** The timing of NRC follow-up to a routine inspection would depend on the relative qualitative safety or security significance of a deficient licensee program in the area of the traditional enforcement action. Typically, the inspection staff will have information about the probable cause of traditional enforcement actions as a result of their normal inspection activity. In addition, as part of the enforcement process, the licensee would make their own determination of their program adequacy. The available information can then be used **to decide** on the timing of NRC follow-up, along with the scope and depth of follow-up that is warranted. Follow-up **on** Orders should generally be completed after notification by the licensee, or party subject to the order, that the required actions are complete. Some actions are recurring over a long period, as such, follow-up is not required to wait pending completion of all confirmatory order actions.

Depending on the relative safety or security significance of the issue, the inspector and their management may conclude that an in-office review of the licensee docketed evaluation and corrective actions may suffice to close out the finding, rather than performing an onsite follow-up inspection.

Because of their unique nature, the regional office should closely coordinate with the Office of Enforcement (OE) for follow-up of **Alternative Dispute Resolution (ADR) Confirmatory Orders** related to discrimination cases. Typically, the OE staff will take the lead to perform the follow-up review of discrimination cases. The review will initially take place in-office. The OE reviewer will determine any necessary on-site follow-up activity and coordinate on-site follow-up with the region. The OE reviewer will also provide a feeder inspection report input to document the results of their review.

The onsite inspection, if necessary, is to both determine the adequacy of the licensee actions to correct the deficiencies associated with the traditional enforcement action, and to examine whether the licensee evaluations included a review of items from their internal self-assessment activities when assessing the repetitive and generic nature of an NRC action and the effectiveness of the related licensee programs. Where an item is identified as repetitive in nature, the licensee should have conducted an in-depth analysis of the effectiveness of their management control systems. This analysis entails the determination of the **causal factors (i.e. root cause(s))** of deficient controls and their potential generic implications. Note that this is the most important part of this inspection procedure. The OE reviewer will identify any necessary on-site verification of selected aspects of a licensee's commitments that are part of the ADR Confirmatory Order related to discrimination that shall be performed to ensure the adequacy of implementation. Confirm that the licensee has instituted appropriate corrective and preventive measures. Refer to IPs 71152, 95001, and 88005, **and applicable inspection procedures for the program being reviewed (such as IPs listed in IMC 2600 Appendix B for fuel cycle facilities)** for further guidance on the adequacy of **the licensee's investigation of the causal factors (i.e. root cause evaluations)** and corrective action reviews.

The inspector should use their discretion to perform field verification activities to supplement their review of licensee programs to gain assurance that the corrective and preventive measures have been appropriately implemented in the field.

### 03.03 Documentation.

- a. Document the closure of the CAL, to the license and the docket file, if all the commitments in the CAL haven been met.
- b. Document to the licensee docket file when the licensee has initially met all the requirements in the Order. In cases where all the requirements have been completed or have been incorporated into the license, document that fact to the docket file.
- c. Promptly notify the Office of Enforcement if licensee commitments contained in a CAL or Order have not been met.
- d. Document the closure of all the enforcement actions, to the licensee and the docket file, if all inspection requirements have been met.
- e. The results of the follow-up **power reactors** inspection activity should be documented in the **inspection results section** of the inspection report. Similarly, the results of the follow-up construction inspection activity should be documented in **Section 4OA3** (other activities) of the inspection report. The results of follow-up actions for fuel cycle facility violations should be documented in the "Other Area Section" of the report and in accordance with IMC 0616, "Fuel Cycle Safety and Safeguards Inspections Reports."

### 92702-04 RESOURCE ESTIMATE

This inspection procedure supports the review of the adequacy of a licensee corrective and preventive measures in response to a traditional enforcement violation or deviation, CAL, or Order. The inspector should obtain confidence through an in-office review of the licensee actions, supplemented with onsite reviews and field verifications when appropriate. The amount of time to perform the inspection is a function of the number of findings followed up, as well as the scope and depth of the follow-up activity. This procedure is implemented on an as-needed **basis and** can serve as a vehicle to perform follow-up on a single to multiple traditional enforcement actions. For power reactor licensees, this procedure will be performed on an as needed basis as part of IMC 2515 Appendix C and IMC 2201 Appendix C. **For fuel cycle facility licensees, this procedure will be performed on an as needed basis as part of IMC 2600, and in conjunction with other IMC 2600 inspection procedures as deemed applicable to the enforcement action being reviewed.**

### 92702-05 REFERENCES

10 CFR 2.201, "Notice of Violation"

10 CFR 19.11, "Posting of Notices to Workers"

NRC Enforcement Manual

NRC Enforcement Policy

IMC 2561, "Decommissioning Power Reactor Inspection Program"

IMC 2201 Appendix C, "General Special and Infrequent Inspections"

| IMC 2600 Appendix B, "NRC Core Inspection Requirements"

| IP 71152, "Problem Identification and Resolution"

| IP 95001, "Inspection for One or Two White Inputs in a Strategic Performance Area"

| IP 88005, "Management Organization and Controls"

EGM 04-004, Enforcement Guidance memorandum - Alternative Dispute Resolution Pilot Program Subsequent to Completion of an Investigation (October 20, 2004)

| Interim Enforcement Policy Regarding Alternative Dispute Resolution (Federal Register Notice Vol. 69, No. 156, page 50219, August 13, 2004) (Nonpublic)

10 CFR Part 50, Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants"

END

Attachment 1

Revision History for Inspection Procedure 92702

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)
	ML073230154 11/01/2007 CN 07-034	This inspection procedure is being reissued and reactivated as a part of the 10 CFR Part 50 construction inspection program to support the resumption of construction activities at Watts Bar Unit 2. The inspection of construction activities at Watts Bar Unit 2, following restart of construction in 2007, will be governed by Inspection Manual Chapter 2517, "Watts Bar Unit 2 Construction Inspection Program."		
N/A	ML072820539 01/10/08 CN 08-001	Re-issuance of procedure to resolve ROP Feedback Form 2515B-1104 regarding follow-up for traditional enforcement and ADR Confirmatory Orders, and ROP Feedback Form 92702-1216 regarding the interface with security inspection program IMC2201.	None	ML080020045
	06/06/17 CN 17-012	This IP was deleted from the Watts Bar Unit 2 construction inspection program.	None	
	02/07/18 CN 18-003	This IP was deleted from the Watts Bar Unit 2 construction inspection program but remains active for other inspection programs. (Listed again in CN 18-003)	None	

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	ML20139A160 10/26/20 CN 20-055	Added additional guidance on CALs and Orders follow-up. Added additional guidance for reviewing corrective actions and licensee causal factors investigation. Rearranged procedure contents in accordance with IMC 0040 format. Added guidance for the follow-up of traditional enforcement actions for Fuel Facilities. Minor editorial comments incorporated.	None	ML20148M276  92702-2156 ML20259A326