

Case No:

96-488

Date Rec'd:

11-20-96

Action Off:

Brown

Related Case

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November 13, 1996

Freedom of Information Officer
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: Freedom of Information Act Request - N119

Dear Sir/Ms.:

This is a request under the Freedom of Information Act.

I request that a copy of the following records and documents be provided to me:

1. A copy of all policy statements and implementing guidance for evaluating allegations of inadequate safety or health protection for;

- a. NRC staffers; and

- b. Licensee employees, their contractors and subcontractors.

2. If any records are not considered releasable under your rules, I request that the subject and date of each such document be identified. If the material requested contains only some classified or otherwise exempt information, I request that reasonably segregated portions be provided after deletion of portions which are exempt under the FOIA.

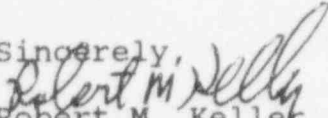
Electronic copies of the records and documents are preferred, if available. If not available, paper copies are acceptable.

In order to help determine my status to assess fees, you should know that I am a representative of the news media as defined in 10 CFR 9.13. My Company publishes a newsletter on issues related to commercial and governmental uses of nuclear materials. The information requested is of current interest to our readers.

I request a waiver of all fees for this request under 10 CFR 9.39(a) and 9.41(a)(1). This request meets the criteria for waiving of fees because (1) the subject of this request concerns the operations and activities of the Nuclear Regulatory Commission (a government agency), (2) the information will contribute to an understanding of safety at a key licensed facilities not presently readily available to the public and, (3) the information can contribute significantly to a public understanding of government operations.

The INFORMATION FOCUS ON ENERGY NEWSLETTER is distributed at minimal cost to persons throughout the world, including members of scientific, public interest and academic organizations through subscriptions via the INTERNET. Payment for copying fees would add significantly to the costs of production, thus possibly reducing the range of distribution.

Sincerely,


Robert M. Keller
President

4/26/93

E. Henry

ALLEGATIONS

- After receiving an allegation, the allegation should be documented on an allegation receipt report, and each section of the report must be completed. Providing the Senior Allegation Coordinator a handwritten note or conversation record alone is not acceptable. The completed form must also be provided. The form can be obtained electronically from the SHARED ITEM MENU in the Regional Instruction Directory, (Regional Instruction 1210) or from the ENF-ALLG Directory under the file name ALLG-FOR.
- When receiving allegations from an alleged, the home address and home telephone number of the alleged must be requested of the alleged so that the individual can be contacted and sent an acknowledgement letter at a location other than work. (If the alleged won't provide the information, ask where any NRC correspondence should be sent, or document that the individual would not provide the home address and/or home telephone number). In addition, the alleged's name should be listed only in the section entitled "Alleged's Name". and should not be mentioned elsewhere in the document.

When evaluating an allegation, you shall not be influenced by any perceptions of what the alleged's motivation may be to bring forth the issue, but only by the merits of the issue. Derogatory remarks regarding an alleged or an alleged's motivation, even in jest, are unacceptable and may send an improper impression to others following up on the allegation, particularly new inspectors.

- When preparing for an inspection that follows up on an allegation, you should contact the Senior Allegation Coordinator for the allegation file, and review in total the entire file to ensure that all alleged's concerns are understood by the inspector and then appropriately followed up on.

When performing an inspection to followup an allegation, you should proceed as you would any inspection and not provide any indication that you are following up an allegation. If the licensee were to ask such a question during any inspection, you should simply state that it is the NRC policy to neither confirm nor deny whether an inspection is following up on an allegation.

When preparing the report of an inspection that followed up on an allegation, you should write the report like other reports, and should not provide any indication that you followed up on an allegation. Rather, you should simply describe the facts, issues, findings, and conclusions.

When preparing the report of an inspection that followed up on an allegation, you should include the Allegation File (Senior Allegation Coordinator) on the bcc list for the report and any other relevant correspondence.

All issues of suspected wrongdoing by a licensee (such as false statements, falsification of records or other suspect licensee data, willful violations of NRC requirements, HI&D, etc.) must be entered into the allegation management system. An allegation receipt report must be completed in each such case, even if the issue arises through means other than an allegation (e.g. inspection, review of documents, etc.). In addition, OI must be promptly informed of each such issue, and the issue must be evaluated by an allegation panel.

Give a copy
of inspection plan to Roy
(Proc Insp. Director)

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PART III

SAFETY AND HEALTH INSPECTIONS, ABATEMENT,
AND HAZARD REPORTING

A. INSPECTIONS

The primary purpose of the safety and health inspection program is to assure safe working conditions and practices for NRC employees at Headquarters and all regional locations through the early detection and abatement of unsafe practices and/or working conditions. This excludes private establishments.

1. Responsibilities. Periodic, unannounced inspections of all workplaces shall be conducted by the responsible Collateral Duty Safety and Health Officer and, if appropriate, the Agency Safety and Health Manager. They shall:

- a. inspect all workplaces under their jurisdiction at least once annually. Workplaces where there is an increased risk of accidents, injury or illness will be inspected more frequently;
- b. report items not in compliance with standards to the supervisor responsible for the work area;
- c. make recommendations on corrective measures to be taken by the supervisor of the particular work area;
- d. ensure that responsible Directors provide to the Designated Safety and Health Official a plan for abatement of any unsafe or unhealthful condition(s) within 15 workdays of receipt of the findings of the inspection; and
- e. conduct unannounced followup inspections to ensure that abatement of hazardous conditions has been accomplished.

2. Procedures. Inspections shall be performed at reasonable times, during normal business hours and shall not disrupt normal operations. No advance notice will be given to the person in charge of the area or establishment to be inspected or the employees' representative.

- a. Safety and health officers, serving in their capacity as inspectors, shall:
 - (1) examine accident, injury and illness reports to assist in identifying potentially unsafe and unhealthful workplaces;
 - (2) take environmental samples and photographs, if necessary;

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- (3) question employees at the workplace, if appropriate; and
 - (4) comply with all safety and health regulations at the workplace being inspected.
- b. The supervisor in charge of the work area being inspected and an employee representative may be permitted to accompany the inspector and bring to his or her attention possible unsafe or unhealthful conditions.

B. HAZARD ABATEMENT

1. The functional manager in charge of an operation is responsible for initiating action required to correct unsafe or unhealthful working conditions brought to his or her attention. He or she shall also ensure that employees are not exposed to undue risk of injury or illness during the period required to abate the hazard. Abatement must be accomplished through normal administrative channels when practicable.

2. The responsible supervisor will post a notice of hazards in the immediate work area. Extracts of inspection surveys, and hazard reports may be posted on NRC Form 219, Notice of Unsafe or Unhealthful Working Conditions. (See Exhibit 1.) Notices shall not be removed for three work days or until the hazard has been abated, whichever is later.

3. If a situation exists which could reasonably be expected to cause death or serious physical injury, the immediate supervisor must take appropriate action to protect all affected employees. If immediate abatement of the hazard is not possible, contact the Designated Safety and Health Official or the Regional Administrator for assistance.

C. HAZARD REPORTING

Many safety and health problems can be eliminated as soon as they are identified and brought to the attention of the supervisor. However, an employee does not have to await the outcome of an oral report before filing a written report. The oral or written reports are not intended to interfere in any way with the prior, simultaneous or subsequent use by any employee of any established grievance procedures or collective bargaining agreements, as means of requesting corrections of alleged unsafe or unhealthful working conditions.

1. Oral Reports. Employees identifying hazards shall report them to their supervisors, who will immediately examine the condition and initiate corrective action.

2. Written Reports. Any employee or employee representative may request an inspection of the workplace if he or she believes that an unsafe or unhealthful working condition exists there. The report should:

- a. be in writing (see Exhibit 2), on NRC Form 14, Report of Safety or Health Hazard;

- b. give reasonably particular grounds for the report; and
- c. be signed by the person making the report.

The report shall be addressed to the Designated Safety and Health Official, or to the appropriate Regional Administrator. A copy of the report should be sent to the appropriate Safety and Health Committee.

An inspection will be conducted within 24 hours for conditions of imminent danger, within three working days for potentially serious conditions, and within 20 working days for other than serious safety and health conditions.

3. Request for Anonymity. When requested, the name of the person making the report or the names of individual employees referred to in the request will not be disclosed to anyone other than authorized representatives of the Secretary of Labor, or to the inspector, if he cannot locate the alleged condition without assistance from the person making the report.

4. Any employee who filed a report of an unsafe or unhealthful condition and is not satisfied with the final disposition by the NRC, may contact the Office of Federal Agency Safety Programs, U.S. Department of Labor. The contact must:

- a. be in writing;
- b. describe in detail the entire processing of the report of the unsafe or unhealthful condition;
- c. set forth the objections thereto; and
- d. include a copy of the letter for the NRC Designated Occupational Safety and Health Official or Regional Administrator, as appropriate.

PART IV

ALLEGATIONS OF REPRISAL

1. The NRC has established procedures to assure that no employee is subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in the NRC occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by section 19 of the Occupational Safety and Health Act, Executive Order 12196, or 29 CFR 1960.

2. These rights include, among others, the right of an employee to decline to perform his or her assigned task because of a reasonable belief that under the circumstances the task poses an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures established in accordance with 29 CFR 1960.

3. The Director, Office of Personnel, shall keep the appropriate occupational safety and health committee advised of agency activity regarding allegations of reprisal and any agency determinations thereof. Copies of reprisal investigation findings shall be provided to the Secretary of Labor and to the appropriate safety and health committee.

4. Grievance procedures for those employees who believe they have been subjected to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition are contained in the following sources, as appropriate:

- a. Chapter NRC 4157 and Appendix.
- b. Collective Bargaining Agreement.

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