

| REGION I INSTRUCTION 1210.1, Revision 9

ALLEGATIONS AND COMPLAINTS - GENERAL

A. Purpose

This instruction establishes internal procedures (in accordance with the guidance set forth in NRC Manual Chapter 0517, "Management of Allegations, April 3, 1990") for the receipt, processing, control and disposition of allegations (involving NRC licensed activities or facilities) received by any Region I staff members, and for the accurate and timely updating of the status of those allegations for which Region I is the Action Office.

B. References

1. NRC Manual Chapter 0517, Management of Allegations, dated April 3, 1990
2. NRC Enforcement Manual, 1990 (Section 5.5)
3. Memorandum, dated February 21, 1992, from the EDO to the Regional Administrators
4. Memorandum, dated October 28, 1992, from the Director, Office of Enforcement to the Regional Administrators

C. Discussion:

An allegation is a declaration, statement, or assertion of impropriety or inadequacy associated with NRC-regulated activities, the validity of which has not been established. This includes all concerns identified by sources such as the media, individuals, organizations, and technical audit efforts from the Federal, State or local government regarding activities at a licensee site. Allegations may be made in person, in writing, or by telephone.

Region I staff members must recognize allegations, and must handle information that is the subject of an allegation in a professional, prompt, and uniform manner.

Region I staff members who receive an allegation must protect the identity of the individual providing the information, and must take every effort to preclude the inadvertent or premature disclosure of the individual's identity outside the NRC. This protection of identity is not to be confused with the principle of "confidentiality," a matter which is discussed in detail in this instruction, and in Section II of NRC Manual Chapter 0517, Appendix 0517.

Region I staff members must recognize that no information received regarding safety can be considered as being "off the record." Individual allegers who offer "off the record" information must be clearly informed that safety-related information will not be accepted as "off the record" and that such information will be officially accepted and appropriately acted upon by the NRC.

CONTACT:  
Senior Allegation Coordinator

Revision Responsibility:  
ORA

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D. Implementation

1. Any Region I staff member may receive an allegation, and therefore shall become familiar with the procedures for processing allegations as outlined in the appendices to this instruction, as well as in NRC Manual Chapter 0517. Specific procedures for processing allegations involving harassment, intimidation, or discrimination of employees (or contractor employees) for engaging in protected activities ("whistleblower allegations,") whether made to the NRC or Department of Labor (DOL) or both, are provided in Appendix 9.0 of this instruction and in NRC Enforcement Manual, 1990 (Section 5.5).
2. The Senior Allegation Coordinator (SAC) is responsible for providing the required training to regional staff members in the proper management and handling of allegations, as set forth in this instruction and NRC Manual Chapter 0517, to ensure staff members are fully informed of their responsibilities concerning proper implementation of the allegation handling process.
3. The Division Directors and Deputy Directors (both of whom may act as Allegation Panel Chairmen), and the Branch Chiefs shall assure that implementation of the allegation handling and disposition process are in fact carried out in accordance with this instruction and Manual Chapter 0517.
4. Any Region I staff member who receives an allegation shall follow the specific guidance set forth in Appendix 1.0, Sections 1 and 2, of this instruction.
5. The SAC, upon receipt of the information concerning the allegation (either directly from the allogger, or via another staff member) shall assure that receipt of the allegation is promptly documented in accordance with this instruction, and entered into the Allegation Management System within 10 days of the region's receipt of the allegation. The recipient of the allegation should normally document the receipt of the allegation in accordance with this instruction as soon as possible and, in any event, no later than three working days (See Appendix 3.0 for instructions for completing an Allegation Receipt Report), and promptly inform the SAC, (if the allegation was received by someone other than the SAC). Subsequent contacts between an allogger and the SAC should include a technical staff member, when practical, or as appropriate, when the issue is outside the area of the SAC's expertise.
6. The SAC shall schedule the allegation panel to determine appropriate disposition of the allegation. The SAC shall also ensure that individuals attending the panel meeting are provided the allegation information, with the individual's name removed to protect the allogger's identity. The Action Office Contact (AOC) (i.e., Section Chief with project responsibility) will provide the panel members with a proposed plan for resolving the allegation, by completing a draft allegation panel decision form. About every four months, allegations over six months old (except those involving ongoing OI and DOL cases) should be re-evaluated by an allegation panel for future actions.

7. The Allegation Panel, whose composition is described in Appendix 2.0, Section A of this instruction, is responsible for approving or modifying the AOC's proposed plan for resolving the allegation. The AOC is responsible for assuring that the follow-up of the allegations, as decided by the allegation panel, is implemented. (The follow-up may include an inspection, a referral to the licensee and subsequent review of the licensee's report, a referral to the Office of Investigation, a referral to an Agreement State, etc.). If the follow-up includes inspection effort, a written inspection plan shall be prepared by the responsible inspector and reviewed and approved by the Section Chief, prior to the inspection. A copy of the plan shall be placed in the allegation file. Appendix 1.3 provides a form that may be used by the inspectors in preparing the written inspection plan to follow-up an allegation. The responsible inspector should review the allegation file as part of preparing that plan. While the inspector may remove the file from the office of the Senior Allegation Coordinator to perform this review, in no case shall an allegation file be removed from the Region I Office.
8. The AOC, with the SAC's assistance, is also responsible for preparation of all required documentation to the licensee concerning the allegation, such as letters referring an allegation to the licensee, "chilling effect letters", as appropriate, concerning issues of harassment/discrimination (See the Enforcement Manual, Appendix B, Form 22), letters transmitting follow-up inspection report, or closeout letters. The AOC is also responsible for the preparation of OI referrals, when appropriate.
9. The SAC is responsible for the preparation and issuance of all letters to alleged, including acknowledgement, update or closure letters. The SAC is also responsible for the preparation and issuance of certain other correspondence associated with the administrative handling of allegations, including documentation of allegation receipt reports when the SAC is the recipient of the allegation, and documentation of allegation panel meetings. Alleged should be notified of the status of their allegation every six months or sooner. This feedback should be documented in the allegation file. Prior to issuance of any letter to an alleged, the concurrence of the AOC (and Branch Chief for closeout letters), as well as any other Section Chief involved in the technical resolution of the allegation, shall be obtained.
10. All staff members should take particular note of how the identity of an alleged is to be treated (See Appendix 1.1 of this instruction) and under what circumstances confidentiality can be granted as set forth in Manual Chapter 0517, Part II, Section B. In particular, the staff should recognize that confidentiality is not to be granted as a routine matter. Rather, it should be granted only when necessary to acquire information related to the Commission's responsibilities or where warranted under special circumstances.
11. The SAC, as well as all AOCs and above, are delegated the authority to initially grant confidentiality in accordance with the criteria delineated in Manual Chapter 0517. When granted, the circumstances surrounding the granting must be documented in a memorandum to the Allegation File through the SAC, and shall also be documented at the allegation panel meeting. Confidentiality may be granted orally,

such as via the telephone, pending the signing of a confidentiality agreement. Information that should be sought from an allexer to make a determination as to whether the grant of confidentiality is warranted is set forth in Manual Chapter 0517, Part II, Section B.2. The Regional Administrator shall be informed of each instance where confidentiality is granted.

**NOTE:** Although confidentiality is not granted as a routine matter, the staff should, at all times, make every effort to protect the identity of an allexer, and should, for all allegations, avoid unnecessary use of information in correspondence or discussions which would reveal an allexer's identity. (See Appendix 1.1 of this instruction.)

12. The Regional Administrator may withdraw confidentiality if the allexer makes a written request and if the Regional Administrator confirms that the requesting individual is the same person who was granted confidentiality. Only the Executive Director for Operations or the Commission may revoke confidentiality in those situations where the allexer does not request withdrawal of confidentiality.
13. The SAC is responsible for maintenance of official files of all documentation associated with administrative handling of allegations, including, but not limited to, the original allegation, staff correspondence related to the allegation (both to the allexer and licensee), records of related telephone conversations, and DOL correspondence (if applicable). The allegation file maintained by the SAC will be the official record file for any allegation, and the original copies of all documentation and correspondence pertaining to each allegation, including DOL correspondence on "Whistleblower Allegations", shall be forwarded to the SAC and kept in the allegation file maintained by the SAC. For allegations received as of January 1, 1994, each separate technical and/or wrongdoing concern should be tracked in the relevant allegation file. The status of each individual concern should be documented in the allegation file. The SAC shall maintain an additional inventory listing in each new file of contained documents beyond those prescribed on the Control Form. The SAC is also responsible for contacting the allegation coordinator in another office or region when an allegation is being referred to them by Region I. The SAC shall make such a referral both via the telephone, and also via mail.
14. The Region I Technical Division Directors having project responsibility for the licensee (materials, power reactors, non-power reactors, or fuel facilities) for which allegations are received are responsible for assuring their staff's compliance with all aspects of this Regional Instruction and NRC Manual Chapter 0517.
15. The SAC is responsible for the preparation and issuance of a monthly Allegation Status Report by the tenth calendar day of each month. On the first working day of each month, all AOCs will provide the SAC a "marked up" copy of the prior months report so that the reports will be maintained current.



16. The Director, Division of Resource Management and Administration (DRMA), will periodically, but no less frequently than once every six months, perform an audit of the official files being maintained by the SAC to assure compliance with procedures and required record maintenance requirements. The Director, DRS, shall also assign a staff member to provide technical support to the Director, DRMA, to review a sample of the closed files to verify that the inspection effort to follow-up an allegation adequately addressed the specific allegations. The Director, DRS, may utilize the State Agreement Officer to perform technical reviews of allegation files involving material licensees. Audits shall also include review of issues raised in prior Regional and Headquarters audits. In those cases where incompleteness of files or failure to include required information is observed, the Enforcement Officer, and the Director of the Division having project responsibility for processing the allegation, will be notified in writing by DRMA. A copy of such notification will be provided to the Deputy Regional Administrator.

E. Periodic Audits or Reports

1. The Monthly Allegation Status Report is prepared by the SAC.
2. Annual audits of the official Allegation Files maintained by SAC are performed by the Director, DRMA.

F. Effective Date

This Regional Instruction is effective upon receipt and will remain in effect until superseded.

Original Signed by:  
William F. Kane/for

Approved:

Thomas T. Martin  
Regional Administrator

Date: December 7, 1994

Enclosures:

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## APPENDIX 1.0

## OVERVIEW OF THE ALLEGATION DISPOSITION PROCESS

1. An allegation is a declaration, statement, or assertion of impropriety or inadequacy associated with NRC-regulated activities, the validity of which has not been established. This includes all concerns identified by sources such as the media, individuals, organizations, and technical audits from the Federal, State or Local government regarding activities at a licensee site. Allegations may be made in person, in writing, or by telephone. Immediately following the receipt of an allegation or becoming aware of information indicative of improper activities, the following initial actions shall be taken concerning the allegation.

A. Technical Personnel:

If the allegation is received by telephone in the regional office, the recipient of the allegation should take the allegation. If the alleged appears in person at the regional office, the receptionist should contact the Senior Allegation Coordinator, or in his absence, the AOC (the Section Chief with project responsibility), who will take the allegation.

If the allegation is received in person or by telephone out of the office (such as by a resident or regional inspector at a licensee's facility), the individual should take the allegation.

Any members of the Region I staff receiving a telephone call or visit of the type discussed above shall attempt to obtain as much information as possible from the individual, including: full name, complete home mailing address, home telephone number, position in, or relationship to, the facility or activity involved, and a list of the alleged's concerns. The alleged must also be informed of the NRC policy on protecting alleged identity. Appendix 1.1.1 provides a summary of the information to be provided by the recipient of the allegation during the contact with the alleged. (Guidance on interviewing alleged is also set forth in Appendix 1.2 c' this instruction.)

It is the responsibility of the recipient of the allegation to document the information on an Allegation Receipt Form (NRC Region I Form 207: See Appendix 3.1) with as much specificity as possible so that the allegation is well defined. It is also the responsibility of the recipient of the allegation to promptly notify his/her supervisor and the SAC, by telephone or in person and provide the Allegation Receipt Form, through his/her supervisor to the SAC, within three working days. The report should be typed or handwritten legibly. No copies shall be made or distributed, even a copy for the recipients file. Distribution of copies will be made by the SAC.

If an allegation is received in the regional office through means other than the telephone or in person (e.g., letter, newspaper article, etc.), the recipient of the allegation should inform the SAC, the ES or responsible Section Chief at once to determine if there are safety issues that must be addressed immediately. Then the recipient should promptly hand carry or forward the allegation to the SAC in an addressee only envelope. The SAC shall complete an Allegation Receipt Report, file the original copy of the allegation, and send copies (with the alleged's identity removed) to the members of the allegation panel.



Any member of the Region I staff who receives written or telephonic notification that other agencies or NRC offices have received allegations regarding facilities or licensees within Region I shall promptly forward such information to the SAC, who in turn, shall contact that agency or office concerning the allegations.

B. Nontechnical Personnel:

Any non-technical person receiving a telephone call in the Regional Office from an individual with an apparent concern should exert every effort to forward the caller to the Senior Allegation Coordinator or, in his absence, another technical person (preferably the AOC, if possible). If a technical person is unavailable, the recipient of the allegation should obtain as much information as possible from the alleged, and should attempt to also obtain the name, home address and home phone number of the alleged, or find out if and when the individual can make a return telephone call to the regional office. The recipient of the allegation shall also explain to the alleged that he/she may call back (collect) and the recipient shall provide the alleged the name and phone number of the SAC.

2. Every allegation, regardless of source, method of communication involved, or apparent substance, must be documented and evaluated, including allegations involving Agreement State licensees. It is important to obtain as much information as possible concerning the allegation. In addition to the basic information (who, what, when, where, why, and how), attempts should be made to expand and clarify the information as required so that the issue is relatively well defined. (Guidance on Interviewing Allegers is set forth in Appendix 1.2 of this instruction.) In addition, the SAC shall prepare and send the alleged an acknowledgement letter (See Appendix 5.1 for a sample) after obtaining the concurrence of the AOC.
3. Upon receipt of information concerning an allegation, the AOC shall inform the cognizant Branch Chief of the allegation and a course of action will be planned (but not pursued) prior to an allegation panel. This proposed plan of action, which will be on a draft allegation panel decision form, will be provided to the members of the allegation panel in advance of the panel meeting. Although the staff should normally avoid taking any substantive resolution activity prior to the panel meeting, the planned activity may be pursued, if warranted, provided:
  - a. for situations when an immediate safety concern or ongoing violation exists, the follow-up activity has the concurrence of at least the responsible project Branch Chief (or a person acting in such a capacity); or
  - b. for less significant matters, the follow-up activity has the concurrence of at least a Deputy Division Director, (the SAC or his "backup," the Enforcement Specialist, will be informed and will be provided documentation associated with all follow-up activities concerning the allegation.)

If the allegation is within the jurisdiction of another state or federal agency (such as an Agreement State; OSHA, etc.), the issue shall be referred to the appropriate Agency. Under no circumstances shall a Region I employee release the name, address, telephone number, or other potentially identifying information about an alleged to any individual outside the NRC, including personnel of other federal or state agencies, without the authorization of the Regional Administrator, or the Acting

Regional Administrator in his absence. Further, if the alleged is a confidential source, specific authorization must be obtained from the EDO or designee, even if the source does not object to the release, or from the Commission if the source does object.

If another Agency or State requests alleged identifying information so that they can seek additional clarification of the concern, the staff shall in order of priority (1) attempt to have the alleged contact the federal or state Agency directly; (2) get the alleged's permission to provide the identifying information (name, address, or phone number); (3) seek directly from the alleged the information for the other federal or state agency; or (4) get the Regional Administrator's authorization to release the identifying information directly.

4. The SAC, after assigning a file number to the allegation, shall initiate tracking of the allegation by entering the information into the NRC's Allegation Management System (AMS), and by establishing an Allegation Document Control Form (see Appendix 2.1) which is placed in the official allegation file.
5. The SAC shall provide a copy of the allegation to all members of the allegation panel, as well as other pertinent staff members who may have a need to know, after the alleged's name has been removed. The SAC will also provide OI with a copy of all allegations (not only those involving potential wrongdoing). The SAC will then schedule an Allegation Panel Meeting with the appropriate Division Director or Deputy Division Director (either of whom may act as Panel Chairman). For any matter involving potential wrongdoing, the SAC shall ensure that the Office of Investigations is notified within one working day of receipt.
6. The Allegation Panel, whose composition is described in Appendix 2.0, Section A, will meet after the AOC's plan of action is developed. A second panel may be needed for OI matters within 15 days of receipt to allow OI additional time to gather information. The AOC and SAC shall brief the Allegation Panel Chairman with details and background information during the meeting. The SAC will ensure that the State Agreements Officer is at the panel for all allegations involving Agreement States. The SAC will also ensure that the Director, OI:RI is invited to all allegation panel meetings, and will ensure that OI is in attendance for any meeting involving possible wrongdoing. Under normal circumstances, OI should have developed sufficient information regarding the suspected wrongdoing to determine, by the allegation's second panel meeting, whether or not OI will open a case. (See Appendix 8.0 for specific guidance on OI related issue.)
7. If confidentiality was initially granted to the alleged, the panel will affirm such action, discuss the reasons why granting of confidentiality is appropriate, and shall assure that the alleged is provided appropriate documentation for signature (See Part II of Manual Chapter 0517 for handling confidentiality, as well as preparation of a Confidentiality Agreement). The SAC will prepare a memorandum to the file documenting why confidentiality was granted, and the Regional Administrator shall be informed.
8. The Allegation Panel shall review and approve or modify the AOC's proposed plan for resolving the allegation and establish appropriate milestones (i.e., estimated completion dates). The SAC shall record that information on the Allegation Panel Decision Form (Appendix 4.0), obtain the concurrence of the AOC and the Panel Chairman, distribute it to the panel members and other interested parties, and place the original copy in the

allegation file. The SAC will then enter these milestones and other follow-up information in the NRC's AMS. The follow-up actions listed on the Allegation Panel Decision Form should be specific, should list the section(s) responsible for the follow-up action, and should provide deadlines. One of the listed actions should always be the sending of an acknowledgement letter to the alleged, except in cases where the allegation is anonymous. If the follow-up includes inspection effort, a written inspection plan shall be prepared by the responsible inspector and reviewed and approved by the Section Chief, prior to the inspection. Appendix 1.3 provides a form that may be used by the inspectors in preparing an inspection plan to follow-up an allegation. For Agreement State licensees, the appropriate State shall be informed of the allegation in a letter from the State Agreements Officer.

9. The Panel also shall follow the guidance set forth in Section 054 of Manual Chapter 0517, including the factors to be considered in making the decision to refer an allegation to the licensee (See Appendix 2.2 of this instruction). Referrals to a licensee should not be made if it could result in identification of the alleged's identity. If the Panel decides to refer an allegation to the licensee for appropriate follow-up, this referral action shall be in writing, using the sample referral letter in Appendix 6.1. The letter, which shall be prepared by the AOC or his staff (with the assistance of the SAC), shall be signed by the responsible Division Director. This letter (which refers the allegation to the licensee), shall also request that the licensee provide the NRC, within a specified time period (e.g., 30 days), a report in writing, of the licensee's review and disposition of the allegation. This letter must avoid disclosing the date, time, place, or mode of communication of the allegation, the fact that the information was received from an alleged, or any other information that the licensee or anyone else might otherwise use to identify the alleged. The substance of the allegation is to be included as an attachment to the letter. The letter is placed in the Public Document Room, but the attachment is withheld under 10 C.F.R. 2.790. A copy of the entire document shall be provided to the SAC.

**NOTE:** When referring an allegation to a licensee, the licensee should not be provided the original or a copy of the allegation since the information, personnel references, writing style, etc. could possibly reveal the identity of the alleged. Further, the licensee should not be provided any internal documents, such as a letter referring an allegation to the region from another office, such as the Office of the Inspector General.

10. If the allegation was obtained from the Office of the Inspector General (OIG), the SAC shall, promptly following the Allegation Panel, prepare a memorandum to the IG, for the concurrence of the Allegation Panel Chairman and the responsible technical Division Director, if appropriate, and the signature of the Deputy Regional Administrator, which acknowledges receipt of the referral and contains the Region's initial resolution plan, (i.e., refer to licensee, perform an inspection, etc.), and the AMS number assigned to the allegation.
11. Subsequent information pertaining to an allegation (such as letters to allegeders prepared by the SAC, letters of referral to the licensee prepared by the responsible Division, follow-up inspection reports, evaluation of licensee reports, records of telephone conversations related to the allegation, etc.) will be forwarded to the SAC for the allegation file and, where appropriate, the information will be entered in the Allegation Management System by the SAC with DRMA assistance as necessary, at least every 10 days, and preferably, on a weekly basis. Estimated completion

dates should be modified as necessary to reflect the most current closeout estimates. For allegations received as of January 1, 1994, each separate technical and/or wrongdoing concern should be tracked in the relevant allegation file. The status of each individual concern should be documented in the allegation file. The SAC shall also maintain current an additional inventory list of all contained documents beyond those prescribed on the Control Form.

12. Once the allegation follow-up is complete, the follow-up actions will be documented, as will any contact with the alleged (including face-to-face discussions where the alleged expresses an opinion relative to the region's actions). Those documents which are used to document NRC resolution of an allegation and which are publicly available (e.g. inspection reports, transmittal letters, civil penalties, press releases, etc.) should not include unnecessary characterizations about the alleged or the circumstances associated with NRC receipt of the allegation, such as date, time, place, or mode of communications of allegation, or even the fact that the information was received from an alleged. As noted in Section 054 of NRC Manual 0517, NRC officials, in order to protect the identity of the alleged, need not and generally should not reveal that an inspection is based in whole or in part on allegations. In instances where it is necessary to reveal that an inspection or review is the result of an allegation, the documentation should contain only a general reference to that fact.

13. When follow-up of an allegation is completed, a closeout letter (See Appendix 5.6) will be prepared and signed by the SAC. Both the AOC and Branch Chief shall concur on these letters. The letter should be sent to the alleged if a home address is known and the alleged has not specified otherwise.

Closure letters to allegeders containing inspection reports that resolve allegations should indicate specifically where the report addresses the allegation. The AOC shall note that information when providing it to the SAC. (Note: For allegations referred to the licensee for disposition. The allegation shall remain open until the licensee's report of its investigation has been received and evaluated, and the adequacy of the licensee's report has been established and documented, whether in an inspection report or other documentation memorandum.) A copy of the closeout letter may act as the closeout memorandum for the allegation if it includes the appropriate portions of the related inspection report and other information required by Manual Chapter 0517. If a closeout letter to the alleged is not issued (such as for an anonymous allegation), a closeout memorandum to the file must be issued by (1) the SAC (after obtaining the AOC's concurrence), or (2) the AOC, in materials cases where an inspection report is not prepared. (See Appendix 7.0).

Allegations against Agreement State licensees may be closed after the letter to the Agreement State program official has been sent.

14. For allegations that have been referred to the licensee, the AOC shall also prepare a response letter to the licensee, for the Division Director's signature, after the NRC evaluation of the licensee's response is completed.



15. After the allegation is resolved, the closeout letter to the alleged will be placed in the allegation file but not in the PDR, LPDR, docket file, or DCS, or be sent to the licensee. Documents to be retained in the allegation files include those necessary for an individual to understand the incoming allegation and its resolution. In the case where other documents are available, but not in the file, the appropriate documents shall be referenced.
16. Once the allegation is closed, any working file of the allegation maintained by the AOC shall be forwarded to the SAC. The SAC will combine the two files, purge duplication, and maintain one file as the "official record file" on that allegation. The SAC and AOC shall then review the official record file to ensure that it is complete, and shall document this review by "signing off" on the Allegation File Document Control Form completed by the SAC, prior to officially closing the allegation. AOC review and signoff of the Control Form may be performed when the AOC concurs on the closeout letter or memorandum provided all other related allegation documentation is already in the file.
17. During prolonged allegation disposition, the alleged(s) will be kept informed of the region's follow-up activities, via an update letter at a frequency not less than once every six months. The SAC shall prepare and sign the update letters. About every four months, allegations over six months old (except those involving ongoing OI and DOL cases) should be re-evaluated by an allegation panel for future action.
18. Region I staff shall not be influenced by any perceptions of what the alleged's motivation may be to bring forth an 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.
19. Caution: If the allegation involves only alleged improper actions by NRC staff, the SAC, or any other staff member receiving the allegation, shall inform the Deputy Regional Administrator (DRA) of the allegation in accordance with Regional Instruction 1230.1 entitled "Handling of Allegations of Improper Actions by NRC Staff". (However, as noted in that instruction, nothing shall prohibit the recipient of the allegation from contacting the OIG directly.) The SAC shall prepare the related referral to the Office of Inspector General (OIG) for the concurrence of the Enforcement Officer (EO) and the DRA. The SAC will attach the original of the allegation as an enclosure to the OIG referral. The DRA will maintain the file of the referral, with the attachment, when sent to the OIG. Allegations that exclusively allege improper actions by NRC staff will not be entered into the Allegation Management System (AMS).

If the allegation involves specific licensee related allegations, as well as allegations regarding improper actions by NRC staff performance, the SAC will, in addition to preparing the OIG referral, (1) make a copy of the allegation document(s) (i.e., the letters, Allegation Receipt Reports, etc. that comprise the allegation); (2) sanitize the copy for any OIG related issues; and (3) indicate on the copy that the missing information involves issues of improper actions by NRC staff that are being referred to the OIG by the DRA. The SAC will then place the sanitized copy of the allegation documents in the allegation file, after making a second copy that is further sanitized of the alleged's name and other personal identifiers (as is the standard practice) for forwarding to panel members for evaluation of the technical allegations.

The OIG matters will not be discussed at the allegation panel; only the technical issues are to be discussed. Further, the SAC shall not enter the specific OIG matters into AMS, but only will enter the specific technical concerns, as well as a statement that the other issues involved concerns regarding improper actions by NRC staff that have been referred to the OIG.

The SAC will include, in the acknowledgement letter to the alleged, only the specific technical concerns. Specific concerns regarding improper actions by NRC staff will not be articulated in the acknowledgement letter. Rather, the SAC will, for those issues, simply state that those matters have been referred to the OIG, and the alleged should contact the OIG at 1-800-233-3497 if he/she has any questions or other comments regarding those matters.

## APPENDIX 1.1

## PROTECTING IDENTITY

1. A fundamental premise supporting the information gathering process is a determination to maintain NRC's ability to protect the identity of individuals providing the information. The purpose of the principle of identity protection is to ensure that no one will refrain from reporting information because the NRC does not offer a suitable measure of protection to those individuals who provide such information. The responsibility to protect the identity of individuals providing information from retaliatory action by their employers and coworkers begins with the initial contact between the individual and NRC.

While Section 211 of the Energy Reorganization Act and 10 CFR 50.7 and 10 CFR 30.7 makes it unlawful for employers to take retaliatory actions against employees reporting information to the NRC and provides the means for the employees to obtain legal remedies, the legal process can be very lengthy and costly, and employees may still be reluctant to provide information for fear of being out of work for an extended period of time while going through the legal process.

2. The alleged shall be informed that the NRC protects the identity of individuals who provide information to the NRC and this protection includes not revealing the identity to their employer. The information provided in Appendix 1.1.1, Contacts with Allegers, should be provided to the alleged during any telephone call or visit, and also in the acknowledgement letter. As necessary, the individual may also be advised that the NRC does not provide physical protection to an individual who provides information to the NRC (this is a matter for local law enforcement officials).

An individual should be advised that if he or she feels that he or she has been discriminated against by their employer for contacting the NRC or reporting information to the NRC, or for reporting information to their employer, the individual has 180 days from the date of the discriminatory act to report the matter to the Wage and Hour Division of the Department of Labor under provisions of Section 211(b) of the Energy Reorganization Act.

3. Within Region I, the identity of any individual making allegations, expressing concerns, or registering complaints shall be treated as "OFFICIAL USE ONLY" information. Their names shall not appear in any report (except as noted above regarding the preparation of Allegation Receipt Reports or related memorandum) or any internal memorandum or other document placed in normal mail distribution, nor will it be divulged to any NRC employee or outside individual who does not have a "need-to-know" the information. The policy is intended to reinforce the regional emphasis on the responsibilities associated with protecting the identity of individuals who provide information to NRC. Any breakdown in the system which results in the unauthorized disclosure of the identity of an alleged shall be immediately brought to the attention of the Enforcement Officer.

In no case will the identity of such an individual be made known to a licensee employee without the specific approval of the Regional Administrator. If the licensee correctly guesses the identity of the individual, the Region I ~~will~~ <sup>members</sup> will respond that the NRC position is to neither confirm ~~nor~~ <sup>nor</sup> the validity of such guesses and shall refuse to discuss the mat ~~ter~~ <sup>ter</sup> her.

4. Confidentiality is a means by which the NRC protects and withholds from disclosure the identity of an individual who provides adverse and/or incriminating information to the NRC. It is NRC policy not to divulge to others the identity of an individual who was granted confidentiality, either during or subsequent to an inquiry based on the information provided to NRC. Within Region I, confidentiality is considered so important that a "need-to-know" rule will be vigorously implemented and followed by all Region I personnel dealing with any aspect of confidentiality. In addition:
- a. The Regional Administrator is the regional authority for granting confidentiality and this authority has been redelegated to designated Region I staff members, as set forth in Section C.11 of this instruction.
  - b. Region I staff members authorized to grant confidentiality must be thoroughly familiar with the NRC "Procedure for Handling Confidentiality" as set forth in Manual Chapter 0517, Appendix 0517, Section II.
  - c. Inspectors or other Region I staff members involved with an alleged who requests confidentiality should contact the AOC or SAC for the grant of confidentiality.
  - d. Confidentiality may be granted orally pending the signing of a confidentiality agreement by the alleged, and that agreement is signed by an authorized Region I representative.
  - e. In those cases where an alleged requests confidentiality during a telephone conversation, an oral grant of confidentiality may be given by an authorized Region I representative; however, the SAC should be immediately notified, who will make arrangements to mail the alleged a confidentiality agreement.
  - f. The alleged must be advised that he/she has 15 days from receipt of the confidentiality agreement to sign it and return it to the SAC. A copy of the Confidentiality Agreement is attached to this Appendix and is also set forth in Manual Chapter 0517, Appendix 0517, Section II.
  - g. One point regarding promises of confidentiality should be clearly understood by all Region I staff members and explained to the individual providing information, if appropriate. A pledge of confidentiality shall not be made (or may not be honored if previously granted) if the individual provides information indicating that he intends to or has personally committed, or participated in criminal acts which may include a deliberate (knowing and willful) violation of NRC requirements. In cases such as this, the Regional Counsel should be contacted for advice and guidance. Caution should also be exercised in this particular area as there is the possibility the individual could infer he was granted immunity. Other factors to be considered in deciding whether to grant confidentiality are set forth in NRC Manual Chapter 0517, Part II.



- h. As noted in Appendix 0517, Part II, NRC staff must make their best effort to assure that communications and contacts with individuals who have been granted confidentiality do not result in the disclosure of the individual as a confidential source. Such efforts may include the use of nongovernment return addresses, plain envelopes, and rental cars as opposed to government-owned vehicles.
5. There are instances when an allegor will not provide his/her identity and will remain anonymous even after identity protection and confidentiality have been explained. The following points should be explained if an anonymous allegor will not reveal his/her identity:
- The Region I staff member taking the call may not have the technical expertise to evaluate the information provided to determine if it is sufficient to permit adequate follow-up or if it is within the regulatory jurisdiction of the NRC; therefore, it may be necessary to contact the individual for additional information at a later date.
  - It is the Region I policy to keep the allegor informed as to the final resolution of an allegation within the jurisdiction of the NRC. In cases where an allegation is not within the regulatory jurisdiction of the NRC, it is Region I policy to notify the individual of the responsible agency that the matter has been referred to.

After the above points have been explained to the allegor and the allegor persists in not revealing their identity, the recipient of the allegation should document the allegation in as much detail as possible, and advise the individual to contact the Senior Allegation Coordinator collect at 215-337-5222 as soon as possible to provide any additional information that may be necessary for the appropriate resolution of this matter.

## CONFIDENTIALITY AGREEMENT

I have information that I wish to provide in confidence to the U. S. Nuclear Regulatory Commission (NRC). I request an express pledge of confidentiality as a condition of providing this information to the NRC.

It is my understanding that, consistent with its legal obligations, the NRC, by agreeing to this confidentiality, will adhere to the following conditions.

1. During the course of an inquiry or investigation, the NRC will make its best effort to avoid actions which would clearly be expected to result in disclosure of my identity to persons subsequently coming in contact with the NRC.
2. Except as necessary to assure public health and safety and except as necessary to inform Congress or State or Federal agencies in furtherance of their responsibilities under law or public trust, the NRC will not identify me by name or personal identifier in any conversation, communication, or NRC-initiated document released outside the NRC. The NRC will use its best effort to minimize any disclosures made outside of the NRC.
3. The NRC will disclose my identity inside the NRC only on a need-to-know basis to the extent required for the conduct of NRC-related activities. Consequently, I acknowledge that if I have further contacts with NRC personnel, I cannot expect that those people will be cognizant of this Confidentiality Agreement and it will be my responsibility to bring that point to their attention if I desire similar treatment for the information provided to them.
4. Even though the NRC will make its best effort to protect my identity, my identification could be compelled by orders or subpoenas issued by courts of law, hearing boards, Administrative Law Judges, or similar legal entities. In such cases, the basis for granting this promise of confidentiality and any other relevant facts will be communicated by the NRC to the authority ordering the disclosure in an effort to maintain my confidentiality.

I also understand that the NRC will consider me to have waived my right to confidentiality if I take, or have taken, any action so inconsistent with the grant of confidentiality that the action overrides the purpose behind the confidentiality such as (1) disclosing publicly information which reveals my status as a confidential source or (2) intentionally providing false information to the NRC. The NRC will attempt to notify me of its intent to revoke confidentiality and provide me an opportunity to explain why such action should not be taken.

Other Conditions: (if any)

I have read and fully understand the contents of this agreement. I agree with its provisions.

---

Date

---

Name & Address

Agreed to on behalf of the U. S. Nuclear Regulatory Commission.

---

Date

---

Signature, Name, Title

## APPENDIX 1.1.1

## CONTACTS WITH AN ALLEGER

1. Ask for name, address and home phone number, and take the alleged's specific concerns.
2. After taking the concerns (or beforehand if the individual raises related questions), inform the alleged of the following NRC policy.
  - a. In resolving technical issues, the NRC, in protecting your identity, intends to take all reasonable efforts to not disclose your identity to any organization, individual outside the NRC, or the public unless:
    - (1) you have clearly indicated no objection to being identified,
    - (2) disclosure is necessary to ensure public health and safety,
    - (3) disclosure is necessary to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, or
    - (4) you have taken actions that are inconsistent with and override the purpose of protecting your identity.
  - b. Your identity could be disclosed for the reasons given in items (2), (3), and (4) above.
  - c. You are not considered a confidential source unless confidentiality has been formally granted in writing.
  - d. Information provided by the NRC in response to a FOIA request will, to the extent consistent with the FOIA, be purged of your name and other potential identifiers.
3. If the alleged fails to provide the information but first seeks confidentiality, tell the alleged that the NRC will contact him/her regarding the request since only Section Chiefs or above (and the Senior Allegation Coordinator) are authorized to grant confidentiality verbally and have it authorized by a panel.
4. For allegations involving harassment and intimidation (H&I), inform the alleged of the following:

Your identity will be disclosed during an NRC investigation. Also, the NRC normally will not investigate H&I cases from a confidential source because this type of case cannot be investigated if your name is kept confidential.
5. For allegations involving wrongdoing, inform the alleged of the following:

Your identity may be disclosed at the NRC's discretion in order to pursue the investigation.

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6. Feedback the concerns to the alleged to ensure that they have been appropriately captured.
7. Promptly inform supervision/management if any immediate safety concerns exist.
8. Record information on an Allegation Receipt Report and promptly provide the Allegation Receipt Report to the SAC.



## APPENDIX 1.2

## GUIDANCE ON INTERVIEWING ALLEGERS

OBJECTIVE

To gather sufficient information whereby another party can verify the facts and circumstances without recourse to the originator.

ESTABLISH RAPPORT

1. Introduce yourself, shake hands.
2. Try and be a good listener and ask questions.
3. Avoid answering questions if possible.
4. Your primary purpose is to gather information.
5. Always conduct yourself in a professional manner.
6. You are someone's image of the NRC.
7. Remember, allegers often seek/need recognition.
8. Summarize and repeat back the concerns at the end of the interview.

GENERAL INFORMATION

1. Individual's name, home address, and home telephone number
2. Individual's employer, job/title
3. Facility, (Unit I, II?)
4. Docket Number
5. Date, time, (beginning-end)

WHAT IS THE CONCERN?

1. Discuss one issue at a time.
2. Ask questions that lead back to the issue.
3. Use a different interview form for each issue to ensure all aspects of each issue are recorded.
4. Specificity is essential.
5. General statements need specifics.
6. Remember, if you can't define the problem, you can't solve the problem.

WHERE IS IT LOCATED?

1. Building, elevation, room, etc.
2. Ask the individual to take you to the location if possible.
3. Record location as accurately as possible in order for someone else to be able to verify.

WHAT IS THE REQUIREMENT/VIOLATION?

1. Does the individual know the requirement and what is being violated?
2. Is it a "would be better if," concern or a "that's the way they did it at another plant" concern. Is it an opinion?
3. Some are precise; others are confused or have no idea.

WHEN DID IT OCCUR?

1. Specific dates and times determine the procedure in effect at that time.
2. Specific time frames can provide the circumstances and facts surrounding the issue.

WHO IS INVOLVED/WITNESSED?

1. Other individuals lend credibility to information.
2. This is a key question when dealing with confidentiality.

WHO HAVE YOU NOTIFIED IN YOUR MANAGEMENT?

1. Chain of command concept
2. Open door policy
3. How far up the management chain has it gone?

HOW/WHY DID IT OCCUR?

1. Here is where the individual interpreted events.
2. This question can indicate wrongdoing, falsification, harassment/intimidation, etc.
3. Sequence of events/process.

4. Often it's not what happened that is a problem but how it happened and how it was done, that is a problem.
5. What is the allegeder's interpretation of the cause of the problem.

WHAT EVIDENCE CAN BE EXAMINED?

1. This question should be viewed as if you had no follow-up on this matter.
2. Most of the time the inspector receiving the information is not going to perform follow-up; so be considerate to your fellow inspector and gather information.
3. The more information you gather, the easier the follow-up will be, i.e., drawings, procedures, codes, FSAR, etc.
4. We need objective evidence.

WHAT IS THE STATUS?

1. Sometimes individuals just want you to know that they have filed a concern.
2. Advise the individual if he/she is not satisfied with the results to contact the Region I SAC.

OF WHAT IS THIS AN ISSUE?

In your own mind differentiate types of issues during the conversation.

RESPONSIBILITIES

1. If an allegeder requests confidentiality, state, "The NRC does not reveal the identity of allegeders to their employer." Generally this statement will satisfy the allegeder, however, if the allegeder specifically requests confidentiality, state, "your confidentiality request will be reviewed by staff personnel authorized to grant confidentiality."
2. You must speak with an individual expressing a concern.
3. You must document the interview on an Allegation Report.
4. You must make a determination of an immediate threat to the health and safety of the public.
5. You must contact the Region I SAC and your supervisor.
6. You must act in a professional manner.
7. You must not compromise a potential OI investigation. Only pursue the technical issues. If you suspect a potential OI issue, contact your supervisor and Region I SAC.

8. You must advise allegeders of the 180 day reporting requirements for filing a complaint with DOL when harassment/intimidation/discrimination concerns are expressed.
9. You must not reveal the identity of the allegeder.
10. Do not agree to meet with allegeders off site; call your supervisor and Region I SAC for guidance.
11. You should contact Region I SAC and your supervisor prior to performing follow-up actions to develop strategies and protect the identity of allegeder.

## APPENDIX 1.3

INSPECTION PLAN FOR ALLEGATION FOLLOW-UP  
ALLEGATION NO. RI-A- \_\_\_\_\_ - \_\_\_\_\_

I. LICENSEE: \_\_\_\_\_ DOCKET NO. \_\_\_\_\_  
LICENSE NO. \_\_\_\_\_

II. CONCERN(S) TO BE RESOLVED:

III. METHOD OF RESOLUTION:

A. Type of Inspection (Circle One)      SPECIAL      ROUTINE

Dates of Inspection \_\_\_\_\_

Inspector(s): \_\_\_\_\_  
\_\_\_\_\_

B. Method of Inspection

1. Locations/specific sites to be visited:
2. Time period to be covered:
3. Documents and/or activities to be reviewed:
4. Persons to be contacted and/or interviewed:
5. List of questions to be answered/approach to use:
6. Limitations/areas to be avoided:
7. Other comments:

Prepared By: \_\_\_\_\_  
(Inspector)

Approved By: \_\_\_\_\_  
(Section Chief)



APPENDIX 2.0  
RESPONSIBILITIES

A. Allegation Panel

This panel will normally meet every two weeks (or earlier, if warranted for a specific case) and will identify the scope of the allegation; review and affirm or modify the AOC's proposed plan for resolving the allegation; and affirm any initial granting of confidentiality, after considering the factors set forth in NRC Manual Chapter 0517. This Panel will consist of:

- The appropriate Division Director or Deputy Division Director (Chairman of the Panel)
- Branch Chief, or Section Chief (Action Office Contact (AOC)) (State Agreements Officer for Agreement State licensees.)
- Senior Allegation Coordinator
- Office of Investigations Field Director or his designee (at his discretion, but must be informed of all panel meetings and must be in attendance for all matters involving wrongdoing)
- Personnel who will provide technical support to resolve an allegation (at the Panel Chairman's request)

The Chairman of the Panel is responsible for interpreting information and determining if such information is an allegation.

The Chairman of the Panel shall review the documentation of allegation panel decisions, as drafted by the AOC, and modified by the SAC at the panel meeting, and approve them for implementation. This shall be documented by the Panel Chairman initialing the Allegation Panel Decision Form.

The Senior Allegation Coordinator is responsible for requesting OI presence at the Panel Meeting, when appropriate. (OI must be a part of any Allegation Panel involving potential wrongdoing.)

Prior to any action being initiated in response to an allegation, the Allegation Panel shall first convene to evaluate the allegation unless the allegation involves conditions requiring immediate actions that are governed by other NRC procedures (such as theft of Special Nuclear Material, sabotage, or immediate threats to the health and safety of the public). The Action Office Contacts (AOC) shall prepare a draft action plan for following up on the allegation.

The action plan to disposition an allegation shall include a schedule of estimated completion dates (ECD), as well as the individuals responsible for implementing the action plan. The panel determines whether the allegation involves a licensing issue warranting referral to NRR or NMSS or if it involves matters requiring referral to another NRC office or federal agency. In consultation with the Regional Administrator, the Allegation Panel shall determine what notifications outside of the region are appropriate including licensing boards.

The Chairman of the Panel has the authority to correspond with a licensee when requesting follow-up action by a licensee with regard to alleged safety concerns. The Chairman shall follow the guidance set forth in Section 0510 of Manual Chapter 0517 in determining whether to refer allegations to a licensee. If such a referral is appropriate, the Chairman shall do so in writing, using the Sample Letter provided in Appendix 6.1. The Chairman will not refer an allegation to a licensee for follow-up action when (1) the identity of an alleged will be directly or indirectly compromised, or (2) an investigation or inspection could be compromised because of knowledge gained from the release of information. If the Division Director feels in these circumstances that a referral of the allegation to the licensee is warranted (such as in cases when the alleged has simultaneously raised the concern with the licensee, or has informed the NRC that he has no objection to the matter being referred to the licensee), he will notify the Regional Administrator who in turn will notify the EDO, who will approve or disapprove such action. The list of factors to be considered in referring an issue to a licensee is found in Appendix 2.2 of this instruction.

During prolonged allegation disposition, allegations over six months old (except those involving ongoing OI and DOL cases) should be re-evaluated by an allegation panel about every four months for future action. Final resolution of an allegation (inspection report, review of licensee's investigation report, etc.) shall be documented by the AOC and provided to the SAC for placement in the official allegation file maintained by the SAC along with all supporting documentation. For those allegations referred to a licensee, the licensee's response shall be evaluated in accordance with the guidance set forth in Section 0510 of Manual Chapter 0517, and the licensee's response as well as the NRC evaluation, shall be placed in the allegation file prior to closure of the allegation. In addition, the AOC shall also prepare a response letter to the licensee, for the Division Director's signature, after the NRC evaluation is completed.

Sample closeout letters to allegeders and closeout memorandum to the file, which are prepared and signed by the SAC, with the AOC's and Branch Chief's concurrence, are provided in Appendices 5.6, 5.7 and 7.0. Any inspection reports that are referenced in the closeout letters shall be made a part of the Region's docket files and should state the facts clearly in a style that does not reveal that the inspection followed up on an allegation, and does not create the potential to reveal the allegeder's identity. A copy of the closeout inspection report or that portion of the report dealing with the allegation, will also be provided to the SAC by the AOC and shall be placed in the allegation file.

B. Section Chief (Action Office Contact)

The Section Chief with project responsibility assumes the role as the Action Office Contact (AOC) for the facilities/licensees assigned to him and takes the technical lead in resolving allegations. For allegations involving Agreement State licensees, the State Agreements Officer (SAO) is the AOC. Although the SAC or the AOC may contact the allegeder before the allegation panel meeting in an effort to obtain more information, the AOC will plan a course of action for the allegation panel to consider and document that proposed course of action on a draft Allegation Panel Decision Form. However, the AOC will not take any action prior to the panel meeting unless there is an immediate threat to the public health and safety, or approval has been granted by the appropriate Division Director or Deputy Division Director. It is the AOC's responsibility to assure

that the SAC is kept abreast of activities both orally and through documentation. The AOC:

- Documents allegations on the Allegation Receipt Report for those allegations received by him, and provides the completed report (with any backup information) to the SAC;
- Prepares a proposed plan of action for resolving the allegation for consideration by the allegation panel, and distributes it to panel members in advance. This plan shall include a draft Allegation Panel Decision.
- Reviews the SAC's final documentation of Allegation Panel Decisions and certifies their accuracy on the final Allegation Panel Decision Form. The review is documented by the AOC initialing the Allegation Panel Decision form.
- Assures matters are resolved in the manner determined by the allegation panel, and is the point of contact for specialist inspectors, investigators, etc., for the closeout of allegations (no allegations are closed without the AOC's approval regardless of the subject matter). Reviews and approves inspection plans prepared to follow-up on allegation.
- Prepares official documentation of events, actions, modifications, and resolutions of all allegations and provides copies to the SAC. Prepares, with the SAC's assistance, certain allegation related correspondence, including letters to licensees. Documents sent to the licensee or the public should be prepared in such a manner that would not release the identity of the alleged (that is, the staff should avoid any unnecessary discussions concerning the acquisition of the allegation, such as the date, time, place, or mode of communications of the allegation, or even the fact that the information was received from an alleged);
- Ensures that licensee follow-up actions in response to allegations are appropriately evaluated in accordance with Section 0510 of Manual Chapter 0517, and are documented and placed in the allegation file.
- Maintains a working file of actions and correspondence during the disposition of the allegation, appropriately sanitized to protect the alleged's identity, and forwards the file to the SAC upon allegation closeout;
- Upon closeout of the allegation, reviews the official record file maintained by the SAC for completeness and accuracy and "signs off" the Allegation File Document Control Form completed by the SAC and maintained on the inside cover of the file; this review and "signoff" may occur at the time the AOC concurs in the closeout letter or memorandum, provided all other necessary documentation is contained within the file.
- For power reactors, during the period from 30 days prior to the construction completion date until the Commission meeting on full-power authorization, telephonically notifies the NRR Project Manager, within two working days of its receipt of any allegation, and identifies the Action Office. Completion of the Allegation Receipt Report is done by the SAC.

C. Senior Allegation Coordinator (SAC)

The SAC serves as a focal point for the coordination and control of all allegations received by Region I. The SAC:

- Completes an Allegation Receipt Report for all allegations received by him, either via the telephone, in person, through the mail, in newspapers, etc;
- Assigns an Allegation Management System (AMS) number to each allegation;
- Provides a copy of allegations to all panel members, after first removing the name, address and phone number from the copy;
- Provides to OI, within one working day, for their review all allegations complete with allegeder's identifying information;
- Schedules the Allegation Panel Meeting;
- Prepares and issues letters to allegeders including acknowledgement, update, and closeout letters. (NOTE: Prior to issuance, obtains the concurrence of the AOC and any other Section Chief with follow-up responsibility, as well as Branch Chief for closeout letters).
- Documents the Final Allegation Panel Meeting Decisions with specificity, obtains AOC and Panel Chairman concurrence, and provides copies to the AOC, the Panel Members, and the Deputy Director of DRS and DRSS if actions are assigned to DRS or DRSS;
- Assists the AOC, as needed, in the preparation of letters to licensees (such as letters referring an allegation, "chilling effect" letters, etc.), and OI referrals, when needed.
- Whenever confidentiality is granted, prepares a memorandum to the file documenting why confidentiality was granted, and attaches the memorandum to the Allegation Receipt Report;
- Tracks allegations from initial receipt to final resolution, including maintaining an Allegation File Document Control Form (see Appendix 2.1) in the file. For allegations received as of January 1, 1994, each separate technical and/or wrongdoing concern is to be tracked in the allegation file;
- Establishes and maintains the official record files that clearly identify allegations received by the Region in accordance with Manual Chapter 0517;
- Maintains the Allegation Management System (AMS) in a current status, and incorporates all appropriate information, such as the name of licensee, the names of any related licensees or vendors, etc., and provides accurate and timely information from the AMS to Region I management;

- Ensures that all documentation concerning an allegation is received from the AOC and is placed in the file; completes the Allegation File Document Control Form (Appendix 2.1) when the allegation is closed; and ensures the AOC has reviewed the completed file and signs off on the Allegation File Document Control Form before closing the allegation in the AMS;
  - Ensures that the AMS is kept current to within 10 days of regional activities;
  - Prepares, for distribution, the Region I Monthly Status Tracking Report within the first 10 days following the end of a month;
  - Issues Region I Requests for OI Investigation numbers to the AOC and maintains a regional file for such requests;
  - When appropriate, based on an allegation panel decision, forwards a copy of the allegation to the responsible licensing office (NMSS or NRR), or another region, for allegations within their purview, such as forwarding allegations against vendors to NRR;
  - Prepares periodic allegation program reviews to be provided to the Enforcement Officer for briefing of the Regional Administrator and divisional managements;
  - Provides training to the Region I staff concerning the process of handling allegations, as set forth in this instruction and in Manual Chapter 0517;
  - Prepares referrals, as appropriate, to the Office of Inspector General, in accordance with Regional Instruction 1230.1, when applicable allegations are received.
- D. Division Directors/Deputy Division Directors
- Act as the Allegation Panel chairman, and perform the duties of that position.
  - For the Technical Division Director with Project responsibility (Division of Reactor Projects and Division of Radiation Safety and Safeguards), assure their staff's compliance with all aspects of this Regional Instruction and NRC Manual Chapter 0517.
- E. Director, Division of Resource Management and Administration
- Periodically audits (at a minimum of at least once every six months), the files of the SAC to assure compliance with the record keeping requirements of this instruction and NRC Manual Chapter 0517, and informs the responsible Project Division Director and the Deputy Regional Administrator of the audit results. Audits should include review of issues raised in prior Regional and Headquarters audits.



## APPENDIX 2.1

## ALLEGATION FILE DOCUMENT CONTROL FORM

ALLEGATION NO. RI- -A-

- |     |   |     |      |    |      |    |      |
|-----|---|-----|------|----|------|----|------|
| 1.  | Data Entry Sheet (AMS Computer Printout)          | Yes | ____ | No | ____ | NA | ____ |
| 2.  | Original Allegation                               | Yes | ____ | No | ____ | NA | ____ |
|     | Referred from: (Circle only if applicable)        |     |      |    |      |    |      |
|     | NMSS/NRR/RII/RIII/RIV/RV/OIG                      |     |      |    |      |    |      |
|     | Reference No. _____                               |     |      |    |      |    |      |
| 3.  | Sanitized Copy of Allegation                      | Yes | ____ | No | ____ | NA | ____ |
| 4.  | Allegation Panel Decisions                        | Yes | ____ | No | ____ | NA | ____ |
| 5.  | Referral of Allegation                            | Yes | ____ | No | ____ | NA | ____ |
|     | NMSS/NRR/RII/RIII/RIV/RV                          |     |      |    |      |    |      |
|     | Referred to: Reference No. _____                  |     |      |    |      |    |      |
| 6.  | Referral to Another Agency                        | Yes | ____ | No | ____ | NA | ____ |
|     | If so, which one _____                            |     |      |    |      |    |      |
| 7.  | Letters to Allegers                               |     |      |    |      |    |      |
|     | a. Acknowledgement                                | Yes | ____ | No | ____ | NA | ____ |
|     | b. Seeking Additional Information                 | Yes | ____ | No | ____ | NA | ____ |
|     | c. Notifying of Referral to Other Agency          | Yes | ____ | No | ____ | NA | ____ |
|     | d. DOL Complaint                                  | Yes | ____ | No | ____ | NA | ____ |
|     | e. Update Letter                                  | Yes | ____ | No | ____ | NA | ____ |
|     | f. Closeout Letter                                | Yes | ____ | No | ____ | NA | ____ |
| 8.  | OI Referral Request (Usually Panel Decision Form) | Yes | ____ | No | ____ | NA | ____ |
| 9.  | OI Report   | YES | ____ | No | ____ | NA | ____ |
| 10. | Closeout of OI:RI Investigation                   | Yes | ____ | No | ____ | NA | ____ |
| 11. | DOL Correspondence (including closure)            | Yes | ____ | No | ____ | NA | ____ |
| 12. | OIG Referral                                      | Yes | ____ | No | ____ | NA | ____ |
| 13. | Letter to Licensee Referring for Action           | Yes | ____ | No | ____ | NA | ____ |
| 14. | Licensee Response to Referral Letter              | Yes | ____ | No | ____ | NA | ____ |
| 15. | Chilling Effect Letter to Licensee                | Yes | ____ | No | ____ | NA | ____ |

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- |     |   |           |          |          |
|-----|---|-----------|----------|----------|
| 16. | Licensee Response to Chilling Effect Letter   | Yes _____ | No _____ | NA _____ |
| 17. | Inspection Report   | Yes _____ | No _____ | NA _____ |
| 18. | Other Closeout Documentation  | Yes _____ | No _____ | NA _____ |
| 19. | Closeout Memo to File (use if alleged is<br>anonymous or in conjunction with closeout<br>letter to alleged) | Yes _____ | No _____ | NA _____ |
| 20. | <u>CONFIDENTIALITY GRANTED</u>  | Yes _____ | No _____ | NA _____ |

If granted:

- |    |   |           |          |
|----|---|-----------|----------|
| a. | Justification Memo from NRC Staff Member<br>Who Granted Confidentiality | Yes _____ | No _____ |
| b. | Signed Confidentiality Agreement  | Yes _____ | No _____ |
| c. | Cover Placed on File and Stamped<br>Appropriately                       | Yes _____ | No _____ |

CLOSEOUT REVIEW FOR COMPLETENESS/ACCURACY

Senior Allegation Coordinator \_\_\_\_\_ Date \_\_\_\_\_

Action Office Contact \_\_\_\_\_ Date \_\_\_\_\_

APPENDIX 2.2

FACTORS FOR CONSIDERATION IN REFERRING ALLEGATIONS  
TO LICENSEES

- Is there a potentially significant and immediate impact on the public health and safety?
- Can the information be released in sufficient detail to be of use to the licensee or vendor without compromising the identity of the alleged?
- Could the licensee or vendor compromise an investigation or inspection because of knowledge gained from the release of information?
- What is the licensee's past record in dealing with allegations (i.e., what is the likelihood that the licensee will effectively identify, investigate, document, and resolve the allegation)?
- Could the release of the information bring harm to the alleged?
- Is the allegation against licensee management or those parties who would normally receive and address the allegation?
- Has the alleged voiced objections over the release of the allegation to the licensee?
- Is the allegation based on information received from another governmental agency, which does not approve of the information being released in a referral?
- Has the alleged taken this concern to the licensee with unsatisfactory results?

## APPENDIX 3.0

INSTRUCTIONS FOR FILLING OUT  
AN ALLEGATION RECEIPT REPORT (APPENDIX 3.1)  
(Use also for staff suspected wrongdoing)

1. Enter the date and time that the allegation was received.\*
2. Leave the Allegation No. blank. (SAC will complete.)
3. Enter the alleged's name, home address, home and work telephone numbers and indicate if confidentiality was requested (it is important to gather all of this information).\*
4. Enter the alleged's employer and the alleged's job title.
5. Enter the name and docket number(s) of the facility that is the subject of the allegation.
6. Enter a brief summary of the concern(s) (examples: lax security; inadequate QC procedures). If the alleged has more than one concern, number each concern.
7. Enter the number of concerns.
8. Enter your name.
9. Indicate the appropriate "Type of Regulated Activity."
10. Enter the Material License No. for any NMSI allegations.
11. Indicate which "Functional Area" is affected.
12. In the "detailed description" section, present, for each concern, only what the alleged states and do not include the alleged's name in the details. Background information, assumptions, opinions and preliminary follow-up should be on a separate page and provided to the SAC with the allegation. (After assigning the allegation number, the SAC shall place the original copy of the allegation and the Allegation Receipt Report in the allegation file with copies sent to the Allegation Panel Members after the individual's identity is removed.) A copy will be provided to OI including all the alleged identifying information. Retrieve all copies after the Allegation Panel. Keep entries on this form objective and brief while answering such questions as who, what, where, when, why and how.

\* This information is not required for staff identified cases of potential wrongdoing.

13. The Panel will review this sheet before the SAC and/or AOC provides background and initial follow-up information. Read the form after it is written to see if it is an accurate, objective account of each concern. One item that may be entered on this form, if appropriate, is opinion concerning the credibility or behavior of the individual (example: "I've known this person for three years and he is knowledgeable" or "the individual was very nervous which was apparent from breaks in his voice and fidgety manner"). Anything else should be on a separate page when provided to the SAC.
14. If the Allegation Panel grants confidentiality, a memorandum to the file shall be prepared by the SAC and shall document why confidentiality was granted. The memorandum shall be attached to the Allegation Receipt Report.



## APPENDIX 3.1

Allegation Receipt Report  
(Use also for staff suspected wrongdoing)

Page 1 of \_\_\_\_

Date/Time  
Received: \* \_\_\_\_\_ Allegation No. \_\_\_\_\_  
(leave blank)Employee Receiving Allegation or suspecting wrongdoing  
(first two initials and last name): \_\_\_\_\_Name of  
Alleger: \* \_\_\_\_\_ Home Address: \* \_\_\_\_\_

Home Phone: \* \_\_\_\_\_ City/State/Zip: \* \_\_\_\_\_

Alleger's  
Employer: \* \_\_\_\_\_ Alleger's Position/Title: \* \_\_\_\_\_

Facility: \_\_\_\_\_ Docket No. or Materials License No.: \_\_\_\_\_

Was alleger informed of NRC identity protection policy? Yes \_\_\_\_ No \_\_\_\_  
If a licensee employee or contractor,  
did they raise the issue to their management? Yes \_\_\_\_ No \_\_\_\_  
Was confidentiality requested? Yes \_\_\_\_ No \_\_\_\_  
Was confidentiality initially granted? Yes \_\_\_\_ No \_\_\_\_  
Individual Granting Confidentiality: \_\_\_\_\_

## Criteria for determining whether the issue is an allegation:

Is it a declaration, statement, or assertion of impropriety or inadequacy? Yes / No

Is the impropriety or inadequacy associated with NRC regulated activities? Yes / No

Is the validity of the issue unknown? Yes / No

If No to any of the above questions, the issue is not an allegation and should be handled by other appropriate methods (e.g. as a request for information or an OSHA referral).

## Allegation Summary or staff suspected wrongdoing (brief description of concern(s)):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Number of Concerns: \_\_\_\_\_

Type of Regulated Activity (a) \_\_\_\_ Reactor (d) \_\_\_\_ Safeguards  
(b) \_\_\_\_ Vendor (e) \_\_\_\_ Other: \_\_\_\_\_  
(c) \_\_\_\_ Materials (Specify)

Functional Area(s): \_\_\_\_ (a) Operations \_\_\_\_ (e) Emergency Preparedness  
\_\_\_\_ (b) Construction \_\_\_\_ (f) Onsite Health and Safety  
\_\_\_\_ (c) Safeguards \_\_\_\_ (g) Offsite Health and Safety  
\_\_\_\_ (d) Transportation \_\_\_\_ (h) Other: \_\_\_\_\_

\* These sections are not completed for instances of potential wrongdoing identified by NRC staff.

Distribution: SAC \_\_\_\_\_ OR \_\_\_\_\_



## APPENDIX 4.0

## ALLEGATION DISPOSITION RECORD

Rev. 2 10/5/94

Site: \_\_\_\_\_ Section Chief (AOC): \_\_\_\_\_

Allegation No.: \_\_\_\_\_ Date Received: \_\_\_\_\_

Acknowledged: \_\_\_\_\_ Receipt Report to SAC: \_\_\_\_\_

CONFIDENTIALITY GRANTED: Yes No OI Informed: \_\_\_\_\_

IS THERE A HARASSMENT/DISCRIMINATION ISSUE: Yes No

(If yes, complete H&amp;ID section on reverse)

DOES THE ALLEGATION INVOLVE POTENTIAL WRONGDOING: Yes No

DOES THE ALLEGATION HAVE POLITICAL IMPLICATIONS: Yes No

DOES THE ALLEGATION REQUIRE RESOURCES TO RESOLVE

WHICH CAN NOT BE OBTAINED BY THE AOC: Yes No

If yes to any of the above, the allegation needs to go to an Allegation Panel.  
Otherwise, document disposition actions below.

## ALLEGATION PANEL (AP) DECISIONS

Date: \_\_\_\_\_ Previous APs on issue: Yes / No

Chair - \_\_\_\_\_ Branch Chief - \_\_\_\_\_

Section Chief (AOC) - \_\_\_\_\_ SAC - \_\_\_\_\_

(Others) - \_\_\_\_\_ OI Rep. - \_\_\_\_\_

DISPOSITION ACTIONS: (State specific action required for closure (including  
special concurrences), responsible person, ECD and  
expected closure documentation)

1) \_\_\_\_\_  
\_\_\_\_\_

Responsible Person: \_\_\_\_\_ ECD: \_\_\_\_\_

Closure Documentation: \_\_\_\_\_ Completed: \_\_\_\_\_

2) \_\_\_\_\_  
\_\_\_\_\_

Responsible Person: \_\_\_\_\_ ECD: \_\_\_\_\_

Closure Documentation: \_\_\_\_\_ Completed: \_\_\_\_\_

3) \_\_\_\_\_  
\_\_\_\_\_

Responsible Person: \_\_\_\_\_ ECD: \_\_\_\_\_

Closure Documentation: \_\_\_\_\_ Completed: \_\_\_\_\_

4) \_\_\_\_\_  
\_\_\_\_\_

Responsible Person: \_\_\_\_\_ ECD: \_\_\_\_\_

Closure Documentation: \_\_\_\_\_ Completed: \_\_\_\_\_

Safety Significance Assessment: \_\_\_\_\_

Options for Resolution:

Licensee Referral (Dir. Dir. Concurrence Required / Document NRC Review of  
Response - Resp. - AOC)

Referral to Another Agency (OSHA, etc. - Resp. - SAC)

Referral to an Agreement State (MD, ME, NH, NY, RI - Resp. - SAC)

Referral to Another NRC Office (OIG, NRR, Other Regions - Resp. - SAC)

Request for Additional Info. (From allegor, licensee, others - Resp. - AOC)

Closeout Letter/Memo (If no further action planned - Resp. - AOC)

Inspection (Resident/Specialist routine or reactive)

Required Actions:

Acknowledgement Letter (Resp. - AOC)

DOL Info. to Allegor (If H&ID and not provided in person - Resp. - AOC)

Closeout Letter/Memo (Upon completion of disposition actions - Resp. - AOC)

IF H&ID INVOLVED:

- |  |     |    |
|--|-----|----|
| 1) has the individual been informed of the DOL process and the need to file a complaint within 180 days                  | Yes | No |
| 2) has the individual filed a complaint with DOL   | Yes | No |
| 3) if the complainant filed directly with DOL, have they been contacted to obtain their technical concerns (Resp. - SAC) | Yes | No |
| 4) is a chilling effect letter warranted:  | Yes | No |

NOTES: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Distribution: SAC  
OI  
Responsible Persons  
Panel Attendees

## APPENDIX 5.0

## INSTRUCTIONS FOR PREPARING LETTERS TO ALLEGERS

A. Policy

Alleger's concerns shall be acknowledged by a letter to the individual who made the allegation to the NRC. The purpose of the letter is to assure the alleger that his/her concern(s) will be examined and ensure the alleger that the NRC properly understands the allegation. In addition, other follow-up letters may be required in order to obtain additional information or properly address an allegation, update the alleger on the NRC's follow-up activities, or solicit any safety concerns on allegations made to DOL. Generally, feedback should be provided to an alleger every six months or sooner, until the allegation is closed. Further, a closeout letter is also required when all follow-up actions in response to an allegation are completed. Letters to allegers shall be prepared and signed by the SAC.

B. Responsibility

No member of the Region I staff will prepare and forward any correspondence to allegers without first coordinating with the SAC. Generally, there are several types of letters which could be sent to allegers, such as:

- Acknowledgement letter of an allegation (Appendix 5.1 for sample)
- Letter to Alleger Requesting Additional Information (Appendix 5.2 for sample)
- Letter to DOL Complainant Seeking Any Safety Concerns (Appendix 5.3 for sample)
- Letter Updating an alleger concerning the NRC's ongoing activities (Appendix 5.4 for sample)
- Close-out letter (Appendix 5.5 for sample)
- Close-out letter to an alleger for Lack of Response (Appendix 5.6 for sample)
- Letter notifying the alleger of NRC Referral of the Allegation to Another Agency (Appendix 5.7 for sample)

Although samples are provided in Appendices 5.1-5.7 to facilitate preparation of such letters, the SAC, after consulting with the AOC (and Branch Chief), should draft a letter that is appropriate for the particular case. Such letters should be sent by certified or registered mail, and should be signed by the SAC, with the Section Chief's concurrence (and Branch Chief's concurrence for closeout letters).



## APPENDIX 5.1

## SAMPLE ACKNOWLEDGEMENT LETTER TO ALLEGER (DRAFT 10/5/94)

Docket No. \_\_\_\_\_

License No. \_\_\_\_\_

File No. RI-9\_\_-A-\_\_\_\_

(if applicable)

\_\_\_\_\_  
ALLEGER'S NAME\_\_\_\_\_  
ADDRESS

Dear \_\_\_\_\_:

Subject: Concerns You Raised to the NRC Regarding \_\_\_\_\_  
(site name)This refers to your \_\_\_\_\_ with \_\_\_\_\_,  
(telephone conversation, letter, etc.)

on \_\_\_\_\_, in which you expressed concerns related to \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
We have initiated actions to examine your concern(s) as characterized above and will inform you of our findings.

The NRC notes that in resolving technical issues, the NRC is also protecting the identity of alleged and intends to take all reasonable efforts to not disclose your identity to any organization, individual outside the NRC, or the public unless you clearly indicate no objection to being identified. However, you should be aware that your identity could be disclosed if disclosure is necessary to ensure public health and safety, if disclosure is necessary to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, or if you have taken actions that are inconsistent with and override the purpose of protecting an alleged's identity.

**USE ONLY FOR WRONGDOING**

Also, your identity may be disclosed at the NRC's discretion in order to pursue an investigation of issue(s) involving potential wrongdoing, such as the (subject) issue you brought to our attention.

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

**USE THIS PARAGRAPH IF THE ALLEGER WAS DISCRIMINATED AGAINST AND/OR DOL MAY BE AN ALTERNATIVE**

Also, your identity will be disclosed as part of any NRC investigation of (an) issue(s) of potential discrimination against an individual for raising safety issues, such as the concern(s) you raised above.

In addition, the NRC was established to regulate safety issues in the nuclear industry. Regarding the termination of your employment (OR INSERT APPLICABLE ISSUE), the Department of Labor (DOL) has the authority to order backpay, reinstatement or compensatory damages. In order to protect your rights, you must file a written complaint with DOL within 180 days of the occurrence of the discrimination. Any such complaint can be filed with your local DOL office or:

The Office of Administration  
Wage and Hour Division  
Employment Standards Administration  
U.S. Dept. of Labor, Room S3502  
200 Constitution Avenue, N.W.  
Washington, D. C. 20210

Your complaint must describe the firing or discrimination you feel occurred. A copy of the DOL's "Procedures for Handling of Discrimination Complaints Under Federal Employee Protection Statutes" is enclosed for your attention.

**USE THIS PARAGRAPH ONLY FOR ALLEGERS WHERE CONFIDENTIALITY HAS BEEN GRANTED AND WHERE THE ALLEGATION PANEL HAS APPROVED CONFIDENTIALITY PER THE REGIONAL INSTRUCTIONS, BUT FOR WHOM NO CONFIDENTIALITY AGREEMENT HAS BEEN EXECUTED.**

With respect to your request for confidentiality, I assure you that we will attempt to maintain your confidentiality while resolving this matter. Please read the attached Confidentiality Agreement, sign and date and mail it to us in the self-addressed, stamped envelope provided. I would like to point out that licensees can and sometimes do surmise the identity of individuals who provide information to us because of the nature of the information or other factors beyond our control. In such cases, our policy is to neither confirm nor deny the licensee's assumption. (ADD THIS FOR H & I ALLEGATIONS) You should be aware that the NRC normally will not investigate a case of potential discrimination against an individual for raising safety issues if the individual is a confidential source. This type of case cannot be investigated if an allegor's name is kept confidential.

**USE THIS PARAGRAPH IF THE NRC DOES HAVE A SIGNED CONFIDENTIALITY AGREEMENT FROM THE ALLEGER**

With respect to the Confidentiality Agreement you signed, I assure you that we will honor the Agreement. I would like to point out that licensees can and sometimes do surmise the identity of individuals who provide information to us because of the nature of the information or other factors beyond our control. In such cases, our policy is to neither confirm nor deny the licensee's assumption. (ADD THIS FOR H & I ALLEGATIONS) You should be aware that the NRC normally will not investigate a case of potential discrimination against an individual for raising safety issues if the individual is a confidential source. This type of case cannot be investigated if an alleged's name is kept confidential.

**USE THIS FOR ALLEGATIONS REGARDING IMPROPER ACTIONS BY NRC STAFF**

With respect your concerns regarding alleged improper actions by NRC staff, these matters have been referred to the NRC Office of Inspector General (OIG), and if you should have any questions or other comments on these matters, you should contact the OIG directly at 1-800-233-3497.

**USE THIS FOR ALL LETTERS**

Also, if a request is filed under the Freedom of Information Act (FOIA) related to your area(s) of concern, the information provided will, to the extent consistent with that act, be purged of names and other potential identifiers.

Further, you should be aware you are not considered a confidential source unless confidentiality has been formally granted in writing.

Should you have any additional questions, or if the NRC can be of further assistance in this matter, please call me collect at (610) 337-5222.

Sincerely,

\_\_\_\_\_  
Senior Allegation Coordinator  
or Appropriate Section Chief

Enclosure: As stated

bcc:

Allegation File No. \_\_\_\_\_

Enforcement Officer, RI (if 1st paragraph is checked)

concurrency  
SAC            Technical Section Chief  
                 (if appropriate)

AOC

APPENDIX 5.2

SAMPLE LETTER TO ALLEGER REQUESTING ADDITIONAL INFORMATION

Docket No. \_\_\_\_\_

[Name:]

[Home Address:]

[City, State, Zip Code:]

Dear: \_\_\_\_\_:

Subject: Concerns You Raised to the NRC Regarding \_\_\_\_\_  
(facility)

This refers to \_\_\_\_\_  
(Telephone calls, meetings, letters, etc.)  
in which you expressed concerns related to \_\_\_\_\_.

(REQUEST FOR ADDITIONAL INFORMATION PARAGRAPH)

We have determined that we need additional information from you before we can proceed with our inquiry into your concerns. We have attempted to contact you by telephone without success and I would appreciate your contacting me collect at (215) 337-5222 as soon as possible so that we can discuss this matter further.

(ADDITIONAL INFORMATION PROMISED BUT NOT RECEIVED)

Based on your telephone conversation with (NAME) on (DATE), it was understood that you would provide additional information. I would appreciate your contacting me collect at (215) 337-5XXX at your earliest convenience so that we may proceed with our inquiry into this matter. If I am not available at the time, please ask for [Section Chief] or leave a message so we can return your call.

Should you have any additional questions, or if the NRC can be of further assistance in this matter, please call me collect at (215) 337-5222.

Sincerely,

\_\_\_\_\_  
(NAME)  
SAC

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ALLEGATIONS AND COMPLAINTS - GENERAL

RI 1210.1/9

bcc: Allegation File No. \_\_\_\_\_

Concurrence  
SAC

Technical Section Chief  
(if appropriate)

AOC

APPENDIX 5.3

SAMPLE LETTER NOTIFYING THE ALLEGER OF NRC REFERRAL  
OF THE ALLEGATION TO ANOTHER AGENCY

Docket No.: \_\_\_\_\_

[Name:]

[Home Address:]

[City, State, Zip Code:]

Dear (Mr.)(Mrs.)(Ms.)(Miss) \_\_\_\_\_:

Subject: Concerns You Raised to the NRC Regarding \_\_\_\_\_

We have reviewed the concern you expressed in your (letter/conversation/interview) on (date) with (name). We have determined that the associated activity does not fall under NRC jurisdiction.

The agency with jurisdiction is \_\_\_\_\_ (NAME) and we have referred your concern to them. They can be reached at \_\_\_\_\_ (address) if you desire further information regarding the resolution of your concern.

Sincerely,

\_\_\_\_\_  
(NAME)  
SAC

bcc: Allegation File No. \_\_\_\_\_

concurrences

SAC

Technical Section Chief  
(if appropriate)

AOC



## APPENDIX 5.4

SAMPLE LETTER TO DOL COMPLAINANT  
SEEKING ANY SAFETY CONCERNS

Docket No.:

[Name:]  
[Home Address:]  
[City, State, Zip Code:]

Dear \_\_\_\_\_:

Subject: Concerns You Raised to DOL Regarding \_\_\_\_\_

The U. S. Nuclear Regulatory Commission (NRC), Region I, is in receipt of the complaint that you filed with the U.S. Department of Labor (DOL) against - \_\_\_\_\_ (CONTRACTOR/LICENSEE) at (SITE). While the matter of your [discrimination issue] is being handled by DOL, the NRC is tasked with regulating safety at entities possessing certain nuclear materials. In this role, it is our responsibility to investigate any safety concerns raised by individuals such as you.

In order to determine whether or not you have any specific safety concern, apart from the employment issues that are currently before the Department of Labor, it is requested that you call me collect at 215-337-5222. I ask that you respond to my request and call me as soon as possible within the next 30 days.

Sincerely,

(NAME)  
SACbcc:  
Allegation File No. \_\_\_\_\_  
Action Office Contact  
Enforcement OfficerCERTIFIED MAIL  
RETURN RECEIPT REQUESTEDconcurrence  
SAC            Technical Section Chief  
                 (if appropriate)

AOC

APPENDIX 5.5

SAMPLE LETTER UPDATING AN ALLEGER OF NRC'S ONGOING ACTIVITIES

Docket No. \_\_\_\_\_

[Name:]

[Home Address:]

[City, State, Zip Code:]

Dear: \_\_\_\_\_

Subject: Update On Concerns You Raised to the NRC Regarding \_\_\_\_\_

This letter is in regard to the concerns you brought to the NRC in your (letter, conversation, interview) on (DATE).

Your concern is (being reviewed by the NRC, has been referred to the licensee for follow-up, etc.). When we have completed our review, we will notify you of our findings, actions and the final resolution.

Thank you for your help and cooperation. If I can be of further assistance, please call me collect at 215-337-5222.

Sincerely,

(NAME)  
SAC

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

bcc: Allegation File No. \_\_\_\_\_

concurrences

SAC

Technical Section Chief  
(if appropriate)

AOC

## APPENDIX 5.6

SAMPLE CLOSEOUT LETTER TO THE ALLEGER  
(Draw an "X" through any unnecessary paragraphs)

Docket No. \_\_\_\_\_

{Name:}

{Home Address:}

{City, State, Zip Code:}

Dear: \_\_\_\_\_:

Subject: Concerns You Raised to the NRC Regarding \_\_\_\_\_  
(facility)

The NRC Region I office has completed its follow up in response to the concern(s) you brought to our attention on \_\_\_\_\_. Specifically, you indicated \_\_\_\_\_.

In response to your concerns, the NRC (Provide a brief/direct answer to the allegor's concerns, stating what was done and what was found.) We have documented our findings in \_\_\_\_\_

(inspection report no., detail no.)

dated \_\_\_\_\_. A copy of the relevant section(s) of the report is/are enclosed.

(PARAGRAPH: ACTION COMPLETE - INVOLVED 2.790 INFORMATION)

Your concerns dealt with physical security matters, and the details are exempt from public disclosure so we are unable to provide you with a copy of our report.

(PARAGRAPH: ITEMS OF NONCOMPLIANCE IDENTIFIED)

During the NRC (INSPECTION) (INVESTIGATION), violation(s) of NRC requirements was (were) identified. The (LICENSEE) is required to inform us of the corrective actions they have taken or plan to take. Our inspectors will continue to monitor the licensee's activities to ensure proper resolution of this matter.

(PARAGRAPH: STANDARD CLOSING)

We appreciate you informing us of your concerns and feel that our actions in this matter have been responsive to those concerns. Should you have any additional questions, or if I can be of further assistance in this matter, please call me collect at (215) 337-5222.

Sincerely,

(NAME)

SAC

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ALLEGATIONS AND COMPLAINTS - GENERAL

RI 1210.1/9

bcc: Allegation File No. \_\_\_\_\_

concurrences  
SAC

Technical Section Chief  
(if appropriate)

AOC

## APPENDIX 5.7

## SAMPLE CLOSE-OUT LETTER TO ALLEGER FOR LACK OF RESPONSE

Docket No.: \_\_\_\_\_

[Name:]

[Home Address:]

[City, State, Zip Code:]

Dear (Mr.) (Mrs.) (Ms.) (Miss) \_\_\_\_\_:

Subject: Concerns You Raised to the NRC Regarding \_\_\_\_\_  
(facility)

This refers to our letter to you dated \_\_\_\_\_, in which we requested that you contact us to provide additional information regarding your concerns related to \_\_\_\_\_

\_\_\_\_\_ at (Licensee's Facility). Your concerns were discussed with \_\_\_\_\_ in your LETTER/CONVERSATION with \_\_\_\_\_

[on, dated] \_\_\_\_\_.

In that you have not contacted us to provide the additional information we requested, the Region I plans no further action regarding this matter. We have, however, alerted our inspectors to your general concerns so that they can pay particular attention to those areas during their routine inspections. Should you have any questions regarding our disposition of this matter, please call me collect at (215) 337-5222.

Sincerely,

\_\_\_\_\_  
(NAME)  
SAC

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

bcc: Allegation File No. \_\_\_\_\_

concurrences  
SAC

Technical Section Chief  
(if applicable)

AOC



## APPENDIX 6.1

SAMPLE LETTER TO LICENSEE WITH ENCLOSURE FORWARDING  
ALLEGATION FOR LICENSEE REVIEW

Docket No. \_\_\_\_\_

Utility: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Dear \_\_\_\_\_:

The U.S. Nuclear Regulatory Commission recently received information (an allegation\*) concerning activities at \_\_\_\_\_. Details are enclosed for your review and follow-up.

We request that the results of your review and disposition of this matter be submitted to Region I within (XX) days of the date of this letter. We expect that your evaluation of this matter will be thorough, objective and of sufficient scope and depth to resolve this matter. We request that your response contain no personal privacy, proprietary, or safeguards information so it can be released to the public and placed in the NRC Public Document Room. If necessary, such information shall be contained in a separate attachment, appropriately marked, which will be withheld from public disclosure. The affidavit required by 10 CFR 2.790(b) must accompany your response if proprietary information is included.

The enclosure to this letter should be controlled and distribution limited to personnel with a "need to know." The enclosure to this letter is considered Exempt from Public Disclosure in accordance with Title 10 Code of Federal Regulations, Part 2.790(a). However, a copy of this letter, excluding the enclosure, will be placed in the NRC Public Document Room.

The response requested by this letter and the accompanying enclosure are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. 96-511.

If you have any questions concerning this request, please contact [AOC] at [phone number].

Your cooperation with us is appreciated. We will gladly discuss any questions you may have concerning this information.

Sincerely,

\_\_\_\_\_, Director  
(Division Director)

Enclosure: As Stated  
(10 CFR 2.790(a) INFORMATION)

\* There may be occasions when the NRC needs to acknowledge that the information was received as an allegation.

ALLEGATIONS AND COMPLAINTS - GENERAL

RI 1210.1/9

cc: w/enclosure  
Appropriate Plant Contact

cc: w/o enclosure  
PDR

bcc w/enclosure:  
SAC

Allegation File No. \_\_\_\_\_

RI  
SAC

RI  
Section  
Chief

RI  
Branch  
Chief

RI  
Division  
Director

APPENDIX 6.1 (Cont'd)

SAMPLE ENCLOSURE TO LETTER TO LICENSEE REFERRING ALLEGATION

Example Enclosure to letter to XY7 Utility of (date).

The NRC has received information that the contract Level 2 Inspectors at XYZ facility may not be adequately certified, and that as a result, certain frame rods that hold the do-hickeys in the hot crud system may not have been installed properly. Additionally, one of these inspectors has been using narcotics routinely at the jobsite during working hours.

CONTAINS INFORMATION EXEMPT  
FROM PUBLIC DISCLOSURE  
10 CFR 2.790

## APPENDIX 7.0

SAMPLE MEMORANDUM TO FILE  
DESCRIBING CLOSURE OF FOLLOW-UP ACTIONS

MEMORANDUM FOR: File

THRU: Branch Chief and Senior Allegation Coordinator

FROM: Section Chief

SUBJECT: CLOSEOUT OF ALLEGATION NO. RI-9\_\_-A-0\_\_\_\_\_ AT  
\_\_\_\_\_

This allegation is closed. The Region's findings are documented in NRC Inspection Report No. \_\_\_\_\_ dated \_\_\_\_\_. Based on the RESIDENT SPECIALIST REGIONAL INSPECTION LICENSEE'S RESPONSE DATED \_\_\_\_\_ OI REPORT NO. 1-8 -0\_\_\_\_\_, the Region has determined this allegation to be SUBSTANTIATED UNSUBSTANTIATED TRUE EVEN THOUGH THE CURRENT PRACTICES ARE ACCEPTABLE.

[The Region plans to \_\_\_\_\_ with respect to these findings.] or [No further action is planned.]

\_\_\_\_\_  
AOC

Enclosures: As stated

bcc: Allegation File No. \_\_\_\_\_

concurrency  
SAC AOC

APPENDIX 7.1

SAMPLE CLOSEOUT MEMORANDUM TO FILE  
FOR CASES INVOLVING ANONYMOUS ALLEGATIONS

MEMORANDUM FOR: FILE

THRU: Branch Chief and (Senior Allegation Coordinator or AOC)

FROM: AOC or SAC

SUBJECT: CLOSEOUT OF ALLEGATION RI-\_\_-A-\_\_ FOR  
(site/licensee)

1. On \_\_\_\_\_, the NRC received an anonymous allegation(s) that \_\_\_\_\_.
2. As a result, an allegation panel(s) was (were) convened on \_\_\_\_\_, and the NRC \_\_\_\_\_ to resolve the allegation.

Based upon \_\_\_\_\_, the NRC has found that \_\_\_\_\_.

Based on the anonymous nature of the allegation, no response to the allegor is appropriate.

All telephone record documentation of the closeout of this issue is attached.

This allegation is closed.

\_\_\_\_\_  
AOC or SAC

Enclosure: As stated

cc:  
File RI \_\_-A-\_\_  
SAC

## APPENDIX 8.0

## INTERFACE WITH THE OFFICE OF INVESTIGATIONS

OI will be provided with copies of all allegations including complete alleged identification information and should be invited to all allegation panel meetings. OI attendance at a panel is required for all allegations of wrongdoing, including allegations of drug/alcohol abuse, by individuals or organizations other than NRC employees and contractors.

Whenever any member of the staff becomes aware, either through inspection, conversation with a licensee, review of documents, an allegation, or other means, of a matter involving potential wrongdoing (such as false records, false statements to the NRC, willful violations, harassment/discrimination issues, etc.), that staff member shall immediately contact their supervisor, and they will jointly brief the Division Director, and in all instances, notify the Director, OI:RI, or his designee, of the suspected wrongdoing within one working day of the staff's receipt of the information. This notification may be made via a telephone call, but must be promptly followed by a copy of a completed Allegation Receipt Report even for cases of staff suspected wrongdoing. The responsible staff member who obtained the suspected wrongdoing information, shall also promptly provide the Senior Allegation Coordinator the information provided to OI (namely, the completed Allegation Receipt Report).

In all such cases, the Senior Allegation Coordinator shall open an allegation file and enter the information into the Allegation Management System (AMS), even for those cases where the suspected wrongdoing is based on an internal NRC review, so as to provide a central location for tracking all potential wrongdoing matters. (Prior to 1992, only suspected wrongdoing that resulted from an allegation was tracked in the AMS.)

The Senior Allegation Coordinator will schedule an Allegation Panel within seven days of initial receipt of the information to discuss the wrongdoing matter and any technical issues for staff follow-up. OI shall be in attendance at all such meetings.

- a. If OI has developed, by the time of the allegation panel, sufficient information regarding the suspected wrongdoing, such as through interviews of the responsible staff, an alleged, and/or others, to determine that OI will open an investigation on the matter, it will not be necessary for the staff to formally refer the matter to OI. However, the allegation panel decision form should clearly document, as discussed at the panel, the matters to be investigated by OI, as well as the regulatory need for the investigation (i.e., the regulatory requirements potentially violated.)
- b. If OI has developed, at that allegation panel, sufficient information to determine that OI will not open an investigation on the matter, and the staff agrees that an investigation is not warranted, the Senior Allegation Coordinator shall document on the "Notes" section of the Allegation Panel Decision Form, (1) that the potential wrongdoing matter was discussed between the staff and OI, (2) that OI and the staff determined that the matter did not warrant an OI investigation, and (3) the reasons why an OI investigation is not warranted. (If the staff believes that an OI referral is warranted, contrary to OI's belief, then the staff should prepare an OI referral for the Regional Administrator's review and signature, in accordance with existing procedures in Section III of Manual Chapter 0517, Management of Allegations.) The AOC shall obtain an OI referral request number from the SAC who shall maintain appropriate files of OI referrals. The form is prepared by the responsible Section Chief for the Regional Administrator's signature. The Senior Allegation Coordinator shall assist the responsible division to ensure that the issues being referred are well defined. The form is prepared in accordance with Regional Instruction No. 1110, "Referrals to the Office of Investigations" and Part III of NRC Manual Chapter 0517. A copy of the OI referral shall also be provided to the Enforcement Officer.



- c. If OI has not developed, at the time of the allegation panel, sufficient information to determine whether or not an investigation is needed, the SAC should document on the Allegation Panel Decision Form the additional actions to be taken by OI or the staff prior to their determining the need for an investigation. Subsequently, a second allegation panel shall be held within 10 to 15 working days of the staff's original receipt of the potential wrongdoing information, to review the additional information obtained and to determine whether an OI investigation will be initiated. The decision at the second allegation panel, as to whether or not an OI investigation will be initiated, shall be documented, as appropriate, in accordance with the guidance set forth in Items a. or b. above. (Note: The first allegation panel may be postponed in cases where it is clear that the only purpose of the panel is to discuss suspected wrongdoing, and additional time is needed by OI to obtain the necessary information, such as via an OI interview of the staff, an alleged, or others. However, the first panel may not be postponed in cases where there are also technical issues to be discussed at the panel.)

Other tasks for which the staff should consider requesting OI assistance include taking sworn statements, and resolving conflicting factual matters.

APPENDIX 8.1

MEMORANDUM, DATED FEBRUARY 21, 1992 FROM THE EDO  
REGARDING THE HANDLING OF SUSPECTED WRONGDOING

See the hard copy of the instruction for the MOU.

## APPENDIX 9.0

HANDLING OF ALLEGATIONS CONCERNING THE EMPLOYEE PROTECTION  
PROVISIONS OF SECTION 211 OF THE ENERGY REORGANIZATION ACT  
OF 1974 ("WHISTLEBLOWER ALLEGATIONS")Purpose

To provide additional procedures for handling an allegation which involves possible violation of the employee protection provisions of Section 211 of the Energy Reorganization Act (ERA) of 1974, including, the coordination of these matters with the Region I Field Office (OI:RI) of the Office of Investigations, the Department of Labor (DOL), or other NRC offices having authority for the matters raised in the allegation.

Discussion

Allegations of violations of the employee protection provisions of Section 211 of the Energy Reorganization Act of 1974 (commonly referred to as "whistleblower allegations"), involve alleged discriminatory action against an individual(s) for raising perceived safety concerns with the NRC or supervision. Any such "whistleblower allegation," which may be made to the NRC, to the DOL, or both, has an accompanying "safety allegation," (although the specific "safety allegation" may not necessarily be raised by the individual). For example, an individual may allege that he was fired for identifying a welding problem. The alleged firing for raising those concerns constitutes the "whistleblower allegation." The raising of the problems with the welding program constitutes the "safety allegation."

Procedure Implementation1. Receipt of a "Whistleblower Allegation"

- a. Upon receipt of a "whistleblower allegation," the recipient of the allegation shall complete Region I Form 207 (Appendix 3.1, Allegation Receipt Report) and process that form through the Senior Allegation Coordinator (SAC) in accordance with the guidance set forth in Appendix 1.0, Section 1, of the Regional Instruction 1210.1, except as more specifically directed in this Appendix. The accompanying "safety allegations" should be tracked separately from the "whistleblower allegation," (i.e., they should be treated as two separate allegations, should receive two separate allegation numbers, and should be tracked by the SAC and AOC and closed-out independent from each other). If the "safety allegation(s)" are not described as part of the individual's "whistleblower allegation," the SAC shall contact the individual (in accordance with Manual Chapter 0517, Appendix 0517) using the sample letter set forth in Appendix 5.3, so as to provide the individual an opportunity to provide the NRC the underlying "safety allegation(s)."
- b. The associated "safety allegation(s)" should be handled in accordance with the principal part of this Regional Instruction.

2. Processing of a "Whistleblower Allegation"

- a. In determining the manner in which to process and disposition a "whistleblower allegation", the Allegation Panel shall follow the guidance set forth in:
- i) NRC Manual Chapter Appendix 0517, Part I, Section C.4
  - ii) NRC Enforcement Manual, 1990, Section 5.5;
  - iii) This Regional Instruction (No. RI 1210.1/2), Appendix 8.0, and this Appendix 9.0.

The process is summarized in the enclosed flow chart (see Appendix 9.4 of this Attachment).

- b. If the individual makes the "whistleblower allegation" directly to the NRC, the SAC shall promptly contact the alleged by telephone, if possible, and refer him to the appropriate Regional Office of DOL, unless this has already been done by him, or by someone else if another person was the recipient of the allegation or the complainant has already filed a complaint with DOL. (In any event, all alleged who have suffered some detrimental change in their employment should be advised that if they believe they have been discriminated against for raising safety concerns, they may file a complaint with DOL.) Documentation of this advice shall be included in the allegation file. The recipient of the allegation or the SAC will inform the alleged that any complaint before DOL must be filed within 180 days of the alleged discrimination. The SAC shall also promptly provide the alleged, in writing, a copy of DOL's "Procedures for the Handling of Discrimination Complaints Under Federal Employee Protection Statutes," 29 CFR, Part 24, in the letter acknowledging the allegation.
- c. If the alleged does not file a complaint with DOL within 180 days of his making the "whistleblower allegation" to the NRC, the SAC or the Enforcement Officer shall confirm with DOL that no whistleblower complaint was filed with DOL, and the SAC shall then contact the AOC to reconvene the allegation panel. If DOL has no record of any such complaint from the individual, the SAC shall contact the alleged to confirm that a complaint was not filed with DOL (or request a copy of the information filed with and received from DOL if the individual states that such a complaint was filed.) The panel, shall decide whether to send the licensee a "chilling effect letter" to obtain their explanation of what occurred, refer the matter to the licensee for investigation, or refer the matter to OI for an investigation. In deciding whether to refer the matter to the licensee, the panel shall consider the guidance set forth in NRC Manual Chapter 0517, Section 510 and Appendix 2.0 of this instruction, with due consideration regarding the issue of confidentiality. In deciding whether to make an OI referral, the panel shall consider the egregiousness of the alleged violation, the licensee's prior history of "whistleblower allegations," the elapsed time since the discriminatory act, the individual's reasons (if known) for not filing the complaint with DOL, and the likelihood of a violation. Prior to the decision, the panel may decide to first issue a "chilling effect" letter, (Form 26 of Appendix B of the Enforcement Manual), after considering such issues as confidentiality as well as the potential for jeopardizing a subsequent OI investigation.

- d. If the individual alleged does file the "whistleblower allegation" directly with the DOL, the SAC shall enter the "whistleblower allegation" into the allegation system just as if the individual had made the allegation directly to the NRC. The region should not normally initiate an investigation of the "whistleblower allegation" prior to DOL concluding its investigation, unless the allegation appears to be indicative of a general problem requiring immediate action or otherwise is particularly egregious and has the potential of impacting upon an NRC regulatory concern. However, whenever a DOL Area Director achieves a conciliation or finds in the alleged's favor, a "chilling effect" letter shall be sent to the licensee at that time, even if the matter is appealed to a DOL Administrative Law Judge. The decision to issue a "chilling effect" letter shall be documented on the Allegation Panel Decision Form (Appendix 4.0).
  - e. Consistent with the terms of the Memorandum of Understanding between DOL and NRC (Appendix 9.1), DOL will provide the NRC copies of the decision of the Area Director (AD), Wage and Hour Division, at the conclusion of their investigation, as well as any subsequent Administrative Law Judge (ALJ) decision and Secretary of Labor's (SOL) review of the ALJ decision, if the AD findings are appealed. The Enforcement Officer, as the Regional DOL contact, shall, upon receipt, provide copies of all DOL findings, recommendations and decisions, including settlements, to the Regional Administrator, Deputy Regional Administrator, Regional Counsel, appropriate Division (including the Action Office Contact) and the SAC. The SAC shall maintain as part of the official allegation file all documentation related to the "whistleblower allegation," including all correspondence received from DOL.
  - f. Whenever DOL issues a final decision or approves a settlement, the allegation panel shall review all pertinent information from the licensee (including any response to a "chilling effect" letter), as well as all pertinent information from DOL (such as the AD's compliance Officer's report, the ALJ decision, and the SOL final decision and order). In addition, the Compliance Officer's Report shall be requested from DOL immediately after any Area Director's Decision, regardless of whether the decision was in favor of the licensee or individual, or whether the case was settled. Upon receipt of the report, it shall be reviewed by the allegation panel, and, based on that review, the panel shall then follow the guidance set forth in the NRC Enforcement Manual, Section 5.5, as well as the enclosed flow chart (Appendix 9.4) and depending on the nature of the findings, shall either close the "whistleblower allegation," request an OI investigation, or initiate appropriate enforcement action.
4. Tracking and Closure of Whistleblower Allegation
- a. Each "whistleblower allegation" tracked in accordance with this instruction, shall be maintained in an open status until the DOL and NRC have completed all actions and the allegation is formally closed in one of the ways set forth in the enclosed flow chart. A marked-up copy of the flow chart may be maintained current in each "whistleblower allegation" file by the SAC, if desired, so as to provide prompt indication of the status of the allegation.
  - b. The SAC is responsible for tracking all open "whistleblower allegations" via the AMS.

- c. The SAC (AOC for power reactor allegations) is responsible for preparing all correspondence to the alleged concerning the allegation as well as all related closeout documentation.
- d. The AOC is responsible for preparing all correspondence to the licensee associated with the allegation, including letters of referral to the licensee, chilling effect letters, letters transmitting inspection reports that evaluated the allegation, etc.
- e. The "safety allegations" associated with "whistleblower allegations" shall be closed out independently, in accordance with the principal sections of this Regional Instruction.



APPENDIX 9.1

MEMORANDUM OF UNDERSTANDING BETWEEN  
NRC AND DEPARTMENT OF LABOR

See the hard copy of the instruction for the MOU.

APPENDIX 9.2

PERTINENT SECTIONS OF THE ENFORCEMENT MANUAL CONCERNING THE  
TOPIC OF "DISCRIMINATION FOR ENGAGING IN PROTECTED ACTIVITIES"

See the hard copy of the Instruction for this Appendix.

APPENDIX 9.3

MEMORANDUM, DATED JANUARY 18, 1989 FROM THE DIRECTOR, NRR,  
TO THE REGIONAL ADMINISTRATORS

See the hard copy of the Instruction for a copy of this memorandum.

APPENDIX 9.4

FLOW CHART OF THE PROCESS OF HANDLING ALLEGATIONS OF  
DISCRIMINATION IN VIOLATION OF SECTION 210 OF THE  
ENERGY REORGANIZATION ACT

See hard copy of the Instruction for a copy of this flow chart.

APPENDIX 9.5

MEMORANDUM FROM JAMES LIEBERMAN, DIRECTOR, OFFICE OF ENFORCEMENT  
TO OFFICE DIRECTORS  
SUBJECT: EMPLOYEE DISCRIMINATION

See hard copy of the Instruction for a copy of this memorandum.

Allegation/OI/Enforcement Refresher Training (1995 - Revision, May 1995)

ALLEGATIONS

- When receiving an allegation, take specific concerns; repeat back concerns to ensure clear understanding; obtain alleged's HOME address and HOME telephone number (if alleged won't provide, ask where NRC should send correspondence, or document that alleged would not provide), and inform alleged of the NRC's identity protection policy (See attached guidance from RI 1210). In addition, list alleged's name only in section entitled "Alleged's Name", and not elsewhere in the document. Document all followup conversations with alleged, and provide a copy of the documentation to the SAC for the allegation file.
- Do not provide the identity of an alleged to anyone outside the NRC, including personnel of states or other agencies, without the authorization of the Regional Administrator (RA) or Deputy RA.
- If an allegation also involves improper NRC staff conduct, provide the allegation receipt report directly to the SAC or DRA, and do not discuss those issues with anyone else. (See attached guidance from RI 1210).
- After receiving an allegation, document an allegation receipt report form, completing each section. Providing the SAC a handwritten note or conversation record alone is not acceptable. In addition, if the allegation involves matters within a state's jurisdiction (e.g. Agreement State, or state regulated material), immediately inform verbally the State Agreements Officer (or the individual acting for him in his absence) so the state can be promptly informed - email is not sufficient. Send the acknowledgement letter to the alleged within 15 days (even if the issue is ultimately found to not constitute an allegation), and inform the alleged that the NRC may refer the allegation to the licensee. Send an update letter every 6 months if the allegation remains open more than 180 days. Be clear in the letter in all cases, particularly in cases where the NRC plans no additional action unless the alleged provides additional information.
- When evaluating an allegation, focus only on the merits of the issue, and don't be influenced by any perceptions of the alleged's motivation. 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 to follow up on an allegation, review entire allegation file to ensure all alleged concerns are understood and followed up. Sign out the file if removed from the SAC office, and return to the SAC office by the end of the day. Do not take the file to the inspection, since, in no cases, shall that file leave the Region I office.
- When performing an inspection to followup an allegation, conduct it as you normally would, and do not provide any indication that you are following up an allegation. If the licensee were to ask such a question during any inspection, simply state that it is the NRC policy to neither confirm nor deny whether an inspection is following up on an allegation.
- If an allegation is referred to the Licensee for action, provide a copy of the referral letter to the SAC, along with the licensee's response.
- When preparing the report of an inspection that followed up an allegation, write the report like other reports, and do not provide any indication that you followed up an allegation. Simply describe the facts, issues, findings, and conclusions. Include the Allegation File on the bcc (not cc) for the report and any other relevant correspondence.
- When finished with follow up of an allegation, complete actions to close the allegation file, if appropriate, in a timely manner, including evaluation of a licensee response (for allegations referred to them), and the closure letter. Include related inspection documentation/licensee response with the closure letters.

B/11

## OI ISSUES

- All suspected licensee wrongdoing (false or suspect statements/records/data; willful violations; HI&D) are entered into the AMS if OI opens a case. Complete an allegation receipt report form in all cases, even for issues arising by means other than allegations (inspection, review of documents), and promptly inform OI.
- Delay issuance of enforcement at any severity if the issue is under OI evaluation. (Issuance of such actions requires OI coordination and OE concurrence). Premature issuance may require reopening the case, with Deputy EDO concurrence, to issue a more significant action if, after OI completion, the violations are deemed willful. (Enforcement and inspection reports for unrelated technical issues normally should not be delayed, but should be issued after coordination with OI).
- Close an issue receiving OI review only after OI formally notifies the staff in writing of OI closure, a panel has determined the appropriate course of action, and OE concurrence is obtained, if warranted.
- For investigations closed by OI without substantiating wrongdoing, the responsible Division Director shall send the licensee the OI synopsis noting that the investigation is closed and NRC plans no further action.

## ENFORCEMENT

- When enforcement action is being considered, review the prior enforcement history (via IFS or other means) to ensure violations are not repetitive, or if so, consider repetitive aspect in determining the appropriate action. Highlight concern with repetitiveness in cover letter to the licensee.
- When escalated enforcement is being considered, conduct an enforcement panel within one week of end of inspection. Complete a panel form and distribute to staff prior to panel. Reactor panels will be held on Tuesday beginning at 11 am in half-hour increments. Inform Mary Joe and she will provide a time. Conduct the enforcement conference within 28 days of the last day of the inspection. Coordinate dates with EO to ensure no other conference at the same time.
- When issuing a citation, include Who, What, When, Where, and How in the "Contrary to the above" paragraph, but not the Why (cover the Why in inspection report and/or cover letter). Use parallel language between "contrary to the above" and "requirements" paragraphs. Avoid extraneous information. Date the NOV. Refer to violations as violations, not apparent violations, unless the NOV is held in abeyance.
- If an issue discussed in an inspection report constitutes a violation, it should be issued as either an NOV or a non-cited violation (NCV). When a NCV is issued, address the basis for exercising discretion in the inspection report (or the cover letter for materials cases issued without an inspection report), including how the criteria in the enforcement policy were met, and include in the cover letter a positive message about the licensee's efforts in identifying and/or correcting the violation(s).
- When a Confirmatory Action Letter is issued, use the format in Regional Instruction 1340 (the format is also accessible electronically from the ENF-ALLG Directory, ENF-FORM subdirectory, file name FORM-22). Use the form when preparing CALS to ensure that all of the required boilerplates are included.
- When preparing enforcement documents, use the standard forms from the enforcement manual, found in the S: drive in the ENF-ALLG directory, and assure NOV's are dated, and appropriate supplements are listed.
- When seeking the status of an escalated enforcement, check the status report in the ENF-ALLG directory.
- Aggregating violations into one severity level (I, II, or III) problem is acceptable when considering escalated action, depending on facts. Aggregating violations into Severity Level IV problem is not allowed.



GUIDANCE FROM REGIONAL INSTRUCTION 1210 REGARDING  
CONTACTS WITH AN ALLEGER

1. Ask for name, address and home phone number, and take the allegor's specific concerns.
2. After taking the concerns (or beforehand if the individual raises related questions), inform the allegor of the following NRC policy.
  - a. In resolving technical issues, the NRC, in protecting your identity, intends to take all reasonable efforts to not disclose your identity to any organization, individual outside the NRC, or the public unless:
    - (1) you have clearly indicated no objection to being identified,
    - (2) disclosure is necessary to ensure public health and safety,
    - (3) disclosure is necessary to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, or
    - (4) you have taken actions that are inconsistent with and override the purpose of protecting your identity.
  - b. Your identity could be disclosed for the reasons given in items (2), (3), and (4) above.
  - c. You are not considered a confidential source unless confidentiality has been formally granted in writing.
  - d. Information provided by the NRC in response to a FOIA request will, to the extent consistent with the FOIA, be purged of your name and other potential identifiers.
3. If the allegor fails to provide the information but first seeks confidentiality, tell the allegor that the NRC will contact him/her regarding the request since only Section Chiefs or above (and the Senior Allegation Coordinator) are authorized to grant confidentiality verbally and have it authorized by a panel.
4. For allegations involving harassment and intimidation (H&I), inform the allegor of the following:

Your identity will be disclosed during an NRC investigation. Also, the NRC normally will not investigate H&I cases from a confidential source because this type of case cannot be investigated if your name is kept confidential.
5. For allegations involving wrongdoing, inform the allegor of the following:

Your identity may be disclosed at the NRC's discretion in order to pursue the investigation.
6. Feedback the concerns to the allegor to ensure that they have been appropriately captured.
7. Promptly inform supervision/management if any immediate safety concerns exist.
8. Record information on an Allegation Receipt Report and promptly provide the Allegation Receipt Report to the SAC.

GUIDANCE FROM REGIONAL INSTRUCTION 1210 REGARDING  
HANDLING ALLEGATIONS AGAINST LICENSEES  
THAT ALSO CONTAIN ALLEGATIONS OF IMPROPER CONDUCT BY NRC STAFF

Caution: If the allegation involves only alleged improper actions by NRC staff, the SAC, or any other staff member receiving the allegation, shall inform the Deputy Regional Administrator (DRA) of the allegation in accordance with Regional Instruction 1230.1 entitled "Handling of Allegations of Improper Actions by NRC Staff". (However, as noted in that instruction, nothing shall prohibit the recipient of the allegation from contacting the OIG directly.) The SAC shall prepare the related referral to the Office of Inspector General (OIG) for the concurrence of the Enforcement Officer (EO) and the DRA. The SAC will attach the original of the allegation as an enclosure to the OIG referral. The DRA will maintain the file of the referral, with the attachment, when sent to the OIG. Allegations that exclusively allege improper actions by NRC staff will not be entered into the Allegation Management System (AMS).

If the allegation involves specific licensee related allegations, as well as allegations regarding improper actions by NRC staff performance, the SAC will, in addition to preparing the OIG referral, (1) make a copy of the allegation document(s) (i.e., the letters, Allegation Receipt Reports, etc. that comprise the allegation); (2) sanitize the copy for any OIG related issues; and (3) indicate on the copy that the missing information involves issues of improper actions by NRC staff that are being referred to the OIG by the DRA. The SAC will then place the sanitized copy of the allegation documents in the allegation file, after making a second copy that is further sanitized of the alleged name and other personal identifiers (as is the standard practice) for forwarding to panel members for evaluation of the technical allegations.

The OIG matters will not be discussed at the allegation panel; only the technical issues are to be discussed. Further, the SAC shall not enter the specific OIG matters into AMS, but only will enter the specific technical concerns, as well as a statement that the other issues involved concerns regarding improper actions by NRC staff that have been referred to the OIG.

The SAC will include, in the acknowledgement letter to the alleged, only the specific technical concerns. Specific concerns regarding improper actions by NRC staff will not be articulated in the acknowledgement letter. Rather, the SAC will, for those issues, simply state that those matters have been referred to the OIG, and the alleged should contact the OIG at 1-800-233-3497 if he/she has any questions or other comments regarding those matters.

## CONTACTS WITH AN ALLEGER

1. Ask for name, address and home phone number, and take the alleged's specific concerns.
2. After taking the concerns (or beforehand if the individual raises related questions), inform the alleged of the following NRC policy.
  - a. In resolving technical issues, the NRC, in protecting your identity, intends to take all reasonable efforts to not disclose your identity to any organization, individual outside the NRC, or the public unless:
    - (1) you have clearly indicated no objection to being identified,
    - (2) disclosure is necessary to ensure public health and safety,
    - (3) disclosure is necessary to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, or
    - (4) you have taken actions that are inconsistent with and override the purpose of protecting your identity.
  - b. Your identity could be disclosed for the reasons given in items (2), (3), and (4) above.
  - c. You are not considered a confidential source unless confidentiality has been formally granted in writing.
  - d. Information provided by the NRC in response to a FOIA request will, to the extent consistent with the FOIA, be purged of your name and other potential identifiers.
3. If the alleged fails to provide the information but first seeks confidentiality, tell the alleged that the NRC will contact him/her regarding the request since only Section Chiefs or above (and the Senior Allegation Coordinator) are authorized to grant confidentiality verbally and have it authorized by a panel.
4. For allegations involving harassment and intimidation (H&I), inform the alleged of the following:

Your identity will be disclosed during an NRC investigation. Also, the NRC normally will not investigate H&I cases from a confidential source because this type of case cannot be investigated if your name is kept confidential.
5. For allegations involving wrongdoing, inform the alleged of the following:

Your identity may be disclosed at the NRC's discretion in order to pursue the investigation.
6. Feedback the concerns to the alleged to ensure that they have been appropriately captured.
7. Promptly inform supervision/management if any immediate safety concerns exist.
8. Record information on an Allegation Receipt Report and promptly provide the Allegation Receipt Report to the SAC.

Issue Date: February 27, 1995

### DRS POLICY NO. 3

## COMMUNICATION WITH REGION 1 DURING INSPECTIONS

### Policy

DRS inspectors should contact regional management promptly following the discovery of significant safety or performance issues (nuclear or non nuclear), or the receipt of allegations at licensee facilities. Concerns raised by licensee personnel regarding the conduct of NRC inspectors at their facility should also be reported as soon as they are known. If circumstances arise that may cause or warrant a change to the inspection scope or schedule, the inspector should promptly consult DRS supervision. Also, inspectors should brief their regional managers regarding significant inspection/examination findings prior to the formal exit meeting with the licensee.

### Discussion

Inspections often proceed smoothly and routinely enough that no help is needed from the regional office. However, a DRS inspector should not feel that he/she is alone during an inspection, but rather, he/she is a representative of the NRC in the field and the NRC organization stands behind that representation. Inspectors must keep the organization informed of significant developments as they arise in order for this support to occur effectively. This is particularly true when questions about NRC inspector conduct are raised.

### Guidance

Following the discovery of any significant safety or significant performance issues during inspections at licensee facilities, DRS inspectors should contact regional management as well as the resident staff as soon as practical. For significant safety issues, this contact should occur **after** the appropriate level of licensee management has been notified. For significant performance insights or issues, i.e., those that reflect broadly on overall licensee performance, the inspectors should discuss these with their supervisors and the resident staff prior to communicating them to the licensee to assure a coherent and consistent message is communicated. For immediate safety issues, other inspection activities should be deferred until the safety issue is communicated and a path to resolution has been identified and action has been initiated.

Upon learning of a licensee concern regarding the conduct of an inspector (or simply the inspection itself), the inspector should interact with licensee management only to the extent needed to gain a clear picture of the issue and then promptly notify his/her regional supervisor. Even the perception of such a problem is worthy of regional contact. The inspector should not take actions to investigate or remedy the issue without specific direction from a regional supervisor. Regional Instruction 1230.1 pertains.

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Allegation receipts should be reported to the regional supervisor orally, as soon as possible after they are received, and in writing per Regional Instruction 1210.1. This is necessary to ensure that a consolidated, management backed approach to validation and resolution can be planned and implemented.

Inspectors must brief their regional management on **significant** inspection findings in advance of the exit meeting in order to provide them with the opportunity to attend the meeting if necessary.

Approved: James T. Wiggins