



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

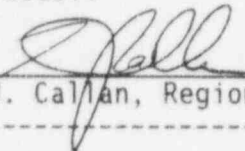
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

MAY 23 1996

PG 0858.5 - MANAGEMENT OF ALLEGATIONS

EFFECTIVE: Immediately
SUPERSEDES PG 0858.4

CONTACT: Senior Allegation Coordinator
DISTRIBUTION: Standard

APPROVAL: 
L. J. Callan, Regional Administrator

A. Purpose/Discussion

To promulgate revised regional procedures for implementing NRC Management Directive 8.8, "Management of Allegations"; substantive revisions are shaded.


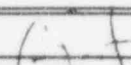
This Policy Guide (PG) applies to allegations concerning licensed activities. Alleged improper actions by NRC staff members should be handled in accordance with PG 1039.

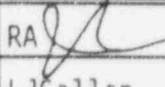
B. Action

Regional personnel involved in receiving and processing allegations must be familiar with Management Directive 8.8 and the attached regional procedures.

cc:
RIV Coordinator, OEDO (MS: 17G21)

95.23.96

SAC 	EO 	RC	D:DRS	
RWise	GFSanborn	WLBrown	TPGwynn	
5/9/96	5/23/96	/ /96	/ /96	

D:DRP	DNMS	DRA	RA 	
JEDyer	RAScarano	SJCollins	LJCallan	
/ /96	/ /96	/ /96	5/23/96	

*previously concurred

B/13

The ARB is augmented with the Regional State Liaison Officer (RSL0) or State Agreements Officer (SA0) for state related allegations; the Director, Office of Investigations (OI) Field Office or a designated representative for all allegations where there is a potential for wrongdoing or a suspicion of wrongdoing; and the Enforcement Officer (EO) on an ad hoc basis.

B. Responsibilities and Authorities

Regional Administrator

Directly responsible to the EDO to assure proper and timely execution of NRC policies and procedures related to receipt, action and disposition of allegations that fall within the jurisdiction of Region IV.

Division Directors

Ensure that the instructions contained herein are properly and timely executed. In particular, the responsible Director shall upon receipt of an allegation by Region IV personnel, as appropriate:

1. Ensure that the SAC is immediately informed of allegations that are received by others.
2. Ensure that allegations that fall within the division's purview are reviewed prior to ARB meetings, and that appropriate personnel are in attendance (or tied in by telephone) at ARB meetings to discuss the plans for resolving such allegations, including:
 1. Recommendations on the need for OI involvement;
 2. Recommendations on referring the matter to the licensee or another organization; and
 3. Recommendations on the priority that should be assigned to recommended actions.
3. Ensure that all allegations are resolved in a manner which is timely under the circumstances and professional in scope and depth. Allegations having relatively high safety significance should be addressed expeditiously. Less significant allegations should be addressed as priorities and resources permit, but normally within 180 days of receipt.
4. Chair ARB Meetings: Director, DRP or designated representative will chair ARB meetings for power reactor facility related allegations. Director, DRS or designated representative will chair ARB meetings for non-power or research reactor allegations. Director, DNMS or designated representative will chair ARB meetings for licensed material or fuel-cycle related allegations.

4. Provide status and/or closeout information for assigned allegations, including all relevant review documentation.
5. As required, brief the RA on assigned allegations that are open longer than 180 days.

Senior Allegation Coordinator

Serves as the administrative point of contact for the receipt and management of information received from alleged, and ensures that the Regional Administrator and all responsible parties are informed of and kept current on the status of allegations. In particular the SAC will:

1. Ensure prior to each ARB meeting that ARB members receive a summary of the allegations that will be discussed. Promptly forwards information related to allegations to the appropriate division(s) so that allegations can be reviewed prior to ARB meetings.
2. Record the results of the ARB discussions, including any assignments and guidance issued by the ARB, on a form that will be signed by the ARB chairman and will be distributed to the AOC and other staff members as appropriate.
3. Maintain records of ARB meetings.
4. Ensure that information related to allegations received within the Region is accurate and is timely entered into the AMS after the ARB has determined the appropriate assignment responsibility.
5. As necessary, coordinate with the Allegation Coordinator of the affected Office or Region for allegations that pertain to more than Region IV responsibilities.
6. Maintain the current status of allegations in the AMS.
7. Prepare and ensure distribution to appropriate RIV staff a Monthly Status Report that summarizes each open allegation and identifies the facility, allegation number, and AOC.
8. Establish, for each allegation received and entered in the AMS, the official allegation file in Arlington Office, containing: (a) original allegation, including an itemized list of concerns if the allegation contains more than one concern, (b) ARB documentation, (c) documentation of all contacts and correspondence with the alleged, (d) documentation for all contacts and correspondence with the licensee (if applicable), (e) documentation of the RIV evaluation and resolution of the allegation, (f) documentation of OI referral (if applicable), (g) inspection reports, and (h) documentation of the disposition of each concern, including



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8/13

A. TermsSenior Allegation Coordinator (SAC)

Designated staff member that serves as the point of contact for administrative processing and control of all allegations received by the Walnut Creek Field Office (WCFO) or the Arlington Office in Region IV.

Action Office (AO)

The NRC office that has lead responsibility for reviewing and taking action to resolve an allegation. For the purposes of this policy guide, OIG is not an action office.

Action Office Contact (AOC)

The staff member in the Action Office who is assigned the responsibility for resolving the allegation. This individual for Region IV will normally be the responsible Branch Chief.

Allegation

A declaration, statement, or assertion of impropriety or inadequacy associated with NRC-regulated activities, the validity of which has not been established.

Allegation Assignment Form (AAF)

A record which documents the decision of the Allegation Review Board for assignment to a technical division for inspection, or requests assistance from the Office of Investigations, or referral to a licensee. The AAF is signed by the Allegation Review Board Chairman, and is maintained in the allegation case file.

Allegation Management System (AMS)

A computerized information system that contains a summary of significant data pertinent to each allegation.

Alleger

An individual or organization who makes allegations. The individual or organization may be a concerned private citizen, a public interest group, news media, a licensee, vendor or contractor employee, or a representative of a local, State, or Federal agency.

Allegation Review Board (ARB)

A committee comprised of the Directors of the Divisions of Reactor Projects (DRP), Reactor Safety (DRS), and Nuclear Material Safety (DNMS) or their designated representatives; the Regional Counsel; and the SAC.

The ARB is augmented with the Regional State Liaison Officer (RSLO) or State Agreements Officer (SAO) for state related allegations; the Director, Office of Investigations (OI) Field Office or a designated representative for all allegations where there is a potential for wrongdoing or a suspicion of wrongdoing; and the Enforcement Officer (EO) on an ad hoc basis.

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5. As required, brief the RA on assigned allegations that are open longer than 180 days.

Senior Allegation Coordinator

Serves as the administrative point of contact for the receipt and management of information received from allegeders, and ensures that the Regional Administrator and all responsible parties are informed of and kept current on the status of allegations. In particular the SAC will:

1. Ensure prior to each ARB meeting that ARB members receive a summary of the allegations that will be discussed. Promptly forwards information related to allegations to the appropriate division(s) so that allegations can be reviewed prior to ARB meetings.
2. Record the results of the ARB discussions, including any assignments and guidance issued by the ARB, on a form that will be signed by the ARB chairman and will be distributed to the AOC and other staff members as appropriate.
3. Maintain records of ARB meetings.
4. Ensure that information related to allegations received within the Region is accurate and is timely entered into the AMS after the ARB has determined the appropriate assignment responsibility.
5. As necessary, coordinate with the Allegation Coordinator of the affected Office or Region for allegations that pertain to more than Region IV responsibilities.
6. Maintain the current status of allegations in the AMS.
7. Prepare and ensure distribution to appropriate RIV staff a Monthly Status Report that summarizes each open allegation and identifies the facility, allegation number, and AOC.
8. Establish, for each allegation received and entered in the AMS, the official allegation file in Arlington Office, containing: (a) original allegation, including an itemized list of concerns if the allegation contains more than one concern, (b) ARB documentation, (c) documentation of all contacts and correspondence with the allegeder, (d) documentation for all contacts and correspondence with the licensee (if applicable), (e) documentation of the RIV evaluation and resolution of the allegation, (f) documentation of OI referral (if applicable), (g) inspection reports, and (h) documentation of the disposition of each concern, including

allegations of discrimination for engagement in protected activity.

9. Serve as the primary contact for receipt of allegations in the Arlington office and periodic contact with allegeders.
10. Serve as the interface and principal contact between the Region IV staff and the OI Field Office staff.
11. Establish, for each Department of Labor (DOL) complaint that is received, an official DOL case file containing copies of: (a) the DOL complaint, (b) the DOL District Director's finding in the complaint, (c) a DOL District Director's Narrative Report (if applicable), (d) a complainant's notification of an appeal to an Administrative Law Judge (ALJ) (if applicable), (e) the ALJ's recommended decision (if applicable), (f) a settlement agreement (if applicable), (g) the Secretary of Labor ruling in the case, and (h) a chronology page documenting each action associated with the complaint.

Allegation Coordinator (AC)

The AC assists the SAC in all of the above and acts for him in his absence in the routine implementation of the program.

Allegation Review Board

The ARB is responsible for conducting an initial review of each allegation or suspicion of wrongdoing: 1) to ensure that the safety significance of each allegation is given appropriate consideration; 2) to ensure that allegations are assigned to the appropriate division and branch; 3) to ensure that appropriate guidance and direction is given to the responsible division/branch; 4) to ensure that alleged wrongdoing is discussed with OI and addressed appropriately; and 5) to screen discrimination complaints at various stages of the DOL process to determine whether an investigation should be conducted or enforcement action considered. For particularly sensitive or complex allegations, the ARB should consider providing guidance to the responsible AOC on the development and review of inspection plans. The ARB's routine responsibilities include:

1. Meeting weekly (or as necessary) to review all allegations received during the preceding week, to review significant new information related to allegations previously reviewed by the ARB, and, if requested by the responsible division director, to review closure plans for specific allegations (e.g., those that are particularly sensitive or complex);
2. Conducting special meetings to review allegations with high potential safety significance or those that require prompt review; and

3. Reviewing all allegations that have exceeded 120 days in processing to determine if additional efforts may be required to facilitate resolution within the timeliness goal of 180 days.
4. Reviewing all allegations for which OI has completed an investigation and the OI report has been reviewed by the Office of Enforcement (OE). The allegations should be reviewed to determine whether the ARB agrees with closure or whether additional action may be required.

Action Office Contact

1. Review ARB guidance and develop action plans to resolve the allegation in a timely fashion, usually within 180 days. Inspection plans should be developed as necessary to minimize the potential for identifying an alleged to licensee management and to ensure that each separable concern is reviewed and resolved. The AOC should ensure that inspectors obtain an itemized list of concerns from the SAC.
2. Within 10 working days of being assigned the responsibility for an allegation, presuming that immediate action is not required, the AOC is to provide the SAC a planned course of action which includes an estimated schedule for addressing the allegation.
3. Maintain close coordination with the SAC to ensure appropriate follow-up on all assigned allegations, to ensure that the SAC is informed of the status of all referred allegations, and to ensure that the SAC is on concurrence for all inspection reports relating to the review or closure of allegations.
4. Provide assistance to the SAC in interviewing alleged when the allegations are particularly complex or outside the SAC's area of expertise.

Enforcement Officer (EO)

When the SAC and AC are absent, the EO or Enforcement Specialist (ES) will assume the responsibility for taking incoming calls from alleged; informing the appropriate division; obtaining sufficient information to enable the ARB to review the matter; and performing other duties of the SAC as necessary.

Regional Duty Officer (RDO)

In the event that none of the above are immediately available, the RDO will assume the responsibility for taking incoming calls from alleged, for informing the appropriate division, and for obtaining sufficient information to enable the ARB to review the matter.

On-call Supervisor

The On-call Supervisor will normally assume the responsibility for taking incoming calls from allegeders who contact the WCFO, for informing the appropriate division, and for obtaining sufficient information to enable the ARB to review the matter.

Clerical/Administrative Staff

Upon receipt of a telephone call from an allegeder, or a person who appears to have concerns about specific licensees of the NRC, refer the caller to the SAC. If the SAC is absent from the Arlington office, refer the caller to the AC, EO, ES or RDO as discussed above. In the WCFO, refer the caller to the On-call Supervisor or appropriate technical staff member.

C. Communicating With Allegers

It is expected that the technical staff who receive calls from individuals or are approached while conducting inspections will document the pertinent information as appropriate to facilitate follow-up of the individual's concerns. The SAC does not need to participate in initial telephone conversations, and the staff should not postpone or unnecessarily delay the individual from providing concerns to NRC.

Consistent with MD 8.8, Disclosure of Alleger Identity, allegeders should be informed by telephone and letter of the degree to which their identity can be protected. This is necessary since some allegeders may incorrectly assume that the NRC can or will protect their identity under all circumstances. Therefore, individuals to whom the NRC has not granted confidentiality should be informed that the NRC intends to take all reasonable efforts not to disclose their identity and of the circumstances under which their identity may be revealed (see MD 8.8, Part I(A)(2)). The information contained in Attachment 1 should be provided verbatim after obtaining as much information as possible.

Those who provide allegations to Region IV must be treated in a professional manner, with respect, consideration, and tact. Under no circumstances should they be dealt with brusquely or abusively. No presumptions should be made with regard to the validity of their concerns or their motivation for raising a particular concern.

All follow-up contacts with allegeders, whether orally or in writing, should be coordinated with the SAC. The SAC will normally be the single point of contact for all follow-up communications with allegeders. However, the SAC should attempt to involve a technical staff member in all discussions with allegeders where the issues being discussed are outside the SAC's areas of expertise.

If the responsibility for handling of an allegation is transferred from one Action Office to another (e.g., Region IV to NRR), the allegeder will

be notified by the SAC of the change in AOC (name and telephone number) to ensure continuity.

The SAC shall be given the opportunity to concur in all regional inspection reports dealing with the review or closure of allegations and, if appropriate, will initiate correspondence including a copy of completed inspection report(s) to the alleged(s).

D. Receipt of Allegations

Allegations Received by Telephone or Personal Visit

Any member of the technical staff may receive an allegation. Although specific staff members have been designated to receive allegations and serve as the primary contact for follow-up communications (see responsibilities above), staff should avoid, to the extent possible, multiple transfers of an incoming call from a concerned individual.

Thus, in the event that difficulty is encountered in reaching those who are designated to receive allegations and communicate with allegeds, technical staff members who take a call from an alleged or are visited by an alleged should obtain the following essential information as identified in Attachment 2 (This Attachment is intended as a guide for any individual receiving an allegation and to emphasize that certain information is essential in resolving an allegation.):

- Nature of allegation (who, what, where, etc.)
- Facility name
- Position or relationship to facility or licensed activity involved
- Name
- Telephone number (day and evening number if possible)
- Employer (licensee or contractor)

The alleged should be provided the name and telephone number of the SAC and told that the SAC may be in touch to obtain additional information or to confirm the scope of the original allegation. If an alleged declines to provide the above information, attempt to establish the reason(s) using the following guidance:

Inform the individual that Section 211 of the Energy Reorganization Act prohibits an employer from discriminating against an employee for contacting the NRC.

If the individual says that the information will be provided if confidentiality is maintained, inform the person that it is NRC policy to treat all allegeds' identities as sensitive/need-to-know information.

If the alleged persists, advise that a confidentiality agreement will have to be coordinated through the SAC and immediately attempt to contact the SAC.

NOTE: If the alleged claims to be the victim of discrimination for raising safety concerns in spite of the prohibition, or the events described suggest that such a possibility exists, advise the alleged that a written complaint must be filed with the U.S. Department of Labor within 180 days of the incident to ensure protection under the law.

Staff members who take allegations or otherwise communicate with allegeders have a responsibility to document the conversation and provide the information to the responsible division and to the SAC.

Allegations Received by Mail

All correspondence that appears to contain allegation material, including internal NRC memoranda addressing allegations, should be forwarded promptly to the SAC for handling and coordination. To avoid the distribution of material that may tend to identify individuals as allegeders, the complete contents of such correspondence and the envelopes should be forwarded to the SAC. A copy should be made and maintained in a secure location until you are sure the information has been received by the SAC, and then the copy should be destroyed.

E. Allegation Processing

Any employee receiving an allegation should immediately advise his or her supervisor and the SAC, if available, and document the allegation in a memorandum to the SAC within 2 working days of receipt. In all cases when the SAC, and EO are not present, the division and branch responsible for the licensed activity that is the subject of the allegation should be informed. If the alleged's name and other identifying information are included in the documentation, only one copy of any document with the identifying information should be made and sent to the SAC (identifying information on any other copies should be blocked out) unless the SAC is absent and it is essential to make immediate contact with the alleged. This will help control the identity of the alleged and minimize inadvertent disclosure.

Following receipt of an allegation, the SAC will summarize the allegation(s) in written form for members of the ARB. After the ARB determines appropriate assignment responsibility the SAC will complete an Allegation Assignment Form (AAF) and have the ARB chairman sign it, will enter the allegation into the AMS, and will provide the AOC a copy of the signed AAF and other relevant information. The AOC will review and evaluate the AAF and relevant information and will coordinate further allegation file reviews and briefings with the SAC. The SAC will provide copies of the AAF to the cognizant division and the OI Regional Field Office as follows:

DRP - all reactor allegations (including security)
DRS - all reactor allegations requiring DRS action and non-power or
research reactor allegations
DNMS - all licensed material and fuel facilities allegations
OI, Region IV - all allegations for information

The SAC will assist the ARB in identifying and separating the issues involved in an allegation into one of the following categories:

1. Allegations that involve purely technical matters, such as: inadequacies in procedures, qualifications, or training; inadequate implementation of procedures; inadequate corrective actions; or overexposure(s) to radiation.
2. Allegations that involve possible wrongdoing such as: record falsification, willful or deliberate violations, false statements, discrimination under Section 211 of the Energy Reorganization Act, or other improper conduct.
3. Allegations that involve matters outside the jurisdiction of NRC.

Technical issues (Category 1) involving failure to meet requirements may have the potential for being willful or deliberate violations. The ARB with OI participation determines when to request OI expertise to resolve potential wrongdoing issues. However, it is understood that OI may self initiate an investigation on any matter without advising the ARB. However, in the absence of the "reasonable belief" that the act is willful or deliberate, such issues will normally not be referred to OI by the ARB.

If the ARB determines that the available information related to an allegation is insufficient to perform an adequate review, the ARB may recommend that the SAC and a designated staff member contact and more fully debrief the alleged.

F. Allegation Referrals

Allegations may be referred to a licensee for action, provided that the criteria in Management Directive 8.8 are followed with regard to limitations on such referrals and the need in certain cases to independently review a licensee's conclusions.

Documents referring allegations to licensees or other organizations will be initiated by the SAC and signed by the appropriate Division Director. In any case involving the referral of an allegation to a licensee, the SAC will make every effort to contact the alleged, if known, and advise the alleged of the planned referral. Except in cases where the safety significance of an allegation warrants a prompt referral, allegation referrals will be delayed until the SAC has made a reasonable attempt to contact the alleged.

Normally, if the alleged disagrees with the decision to refer the allegation and no significant safety issue exists, the allegation will not be referred. However, the ARB should be advised of the alleged's objection during the next regularly scheduled meeting.

Once a licensee has completed its review of a referred allegation and so informed NRC, the appropriate division and AOC will be reassigned the responsibility for conducting inspections or other efforts as necessary, to provide assurance that the licensee's follow-up of the referred allegation was sufficient in scope and depth, and that any safety issues identified during the follow-up were promptly resolved. Following the review of a licensee's response, and it has been determined that the allegation should be closed, the SAC will notify the licensee by telephone that the allegation has been closed.

G. Resolution and Documentation of Allegations

Documentation of allegation resolution can be accomplished in a variety of formats. For example, internal memoranda, investigation reports, inspection reports, technical papers, and SER supplements for multiple allegations have all been used successfully. Allegation closure documentation must address each concern identified on the itemized list of concerns that is maintained in the allegation file.

All documents that are provided to the licensee and are placed in the Public Document Room should normally refrain from discussing the fact that an inspection or investigation was prompted by allegations and should contain no information that would tend to identify a particular alleged to a licensee.

1. An inspection report should be prepared in a manner that the resolution of the allegation is supported by inspection findings, without referencing material incident to the allegation such that the identity of an alleged might be compromised.
2. If the nature of the allegation is so specific that documentation of inspection findings would compromise the identity of an alleged, then resolution documentation should be provided to the SAC in a separate memorandum.
3. Any documentation should be written in a style that does not belittle or disparage the alleged, or the significance of the concerns identified to the NRC.

H. OI Report Disposition

All OI reports will be dispositioned by means of the enforcement process or the ARB process. The EO or the SAC will assure that ARB members are provided copies of all OI reports and will schedule either an enforcement panel or an ARB to discuss the results. For all OI reports where no violations were found and no enforcement action is taken, the

SAC will assure that the licensee who was the subject of the investigation is informed by telephone.*

*Unless no licensee personnel were contacted during the course of the investigation.

DISCLOSURE OF ALLEGER'S IDENTITY

Allegers should be informed by the individual receiving the allegation of the degree to which their identity can be protected. This is necessary since some allegers may incorrectly assume that the NRC can or will protect their identity under all circumstances. Individuals to whom the NRC has not granted confidentiality in accordance with the Commission's "Statement of Policy on Confidentiality" should be informed verbatim of the following:

In resolving technical issues, the NRC intends to take all reasonable efforts not to disclose your identity unless;

- You clearly indicate that you have no objection to being identified.
- Disclosure is necessary because of an overriding safety issue.
- Disclosure is necessary pursuant to an order of a court or NRC adjudicatory authority or to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust.
- Disclosure is necessary in furtherance of a wrongdoing investigation, including an investigation of harassment and intimidation (H&I) allegations.
- Disclosure is necessary to support a hearing on an enforcement matter.
- You have taken actions that are inconsistent with and override the purpose of protecting your identity.

For allegations involving H&I, the NRC will normally disclose your identity during an NRC investigation if you are the victim of the discrimination.

For allegations involving wrongdoing (e.g., allegations involving record falsification, willful or deliberate violations, or other deliberate conduct in violation of NRC regulatory requirements), your identity may be disclosed at the NRC's discretion in order to pursue the investigation.

Information provided under the Freedom of Information Act (FOIA) will, to the extent consistent with that act, be purged of names and other potential identifiers of allegers; however, disclosures may be necessary under this act.

If it is necessary to release your identity for reasons discussed above, we will make reasonable efforts to contact you and explain the need for the disclosure.

ALLEGATION RECEIPT FORM

Date/time of receipt:

How received:

NRC licensee, facility or activity involved:

Nature and details of the concern (obtain specifics):

What is the concern:

Potential safety impact:

Requirement violated:

How the allegor found out about the concern(s):

Other individuals NRC should contact for additional information:

Records NRC should review:

Whether the alleged raised concern(s) with his/her management:

If yes, what action taken:

If no, why?

Does alleged have concern about being identified:

Was alleged informed of identity protection:

Did alleged claim discrimination for raising concern?

Was alleged informed of DOL complaint process?

Contact info and preference for method/time of contact:

Full name:

Position/relationship to facility or activity involved:

Home mailing address:

Home telephone number:

Work telephone number:

Preferences regarding method/time of contact:
