

**OFFICE OF NUCLEAR REACTOR REGULATION**

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***Office Letter Transmittal***

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**TO:** All NRR Employees

**SUBJECT:** NRR OFFICE LETTER NO. 1003, REVISION 2, "MANAGEMENT OF ALLEGATIONS"

**PURPOSE:** Office Letter 1003, Revision 2, supersedes NRR Office Letter 1003, Revision 1, dated December 31, 1990. It provides the policies and procedures for the management of allegations in NRR and establishes the NRR Allegation Review Board (ARB) responsible for directing and overseeing the allegation management process in NRR. This revision to the office letter updates NRR procedures to comply with Management Directive (MD) 8.8, "Management of Allegations." Substantive revisions and additions are indicated by bars in the right margin. Editorial changes are not marked. This revision also incorporates the applicable provisions of Office Letter No. 1000, "Requesting OI Investigations and Notification to OI of Potential Wrongdoing," and Office Letter No. 1002, "The Timing of the Disclosure to Licensees of Pending Investigations and/or Criminal Referrals." Thus, Office Letters Nos. 1000 and 1002 are hereby cancelled.

**DIVISION OF ORIGIN:** Division of Reactor Program Management

**CONTACT:** Jean Lee, 415-2918

**DATE APPROVED:** July 31, 1996

**AVAILABILITY:** Roberta Ingram, 415-1219

## ***NRR OFFICE LETTER NO. 1003, REVISION 2***

### ***MANAGEMENT OF ALLEGATIONS***

#### **POLICY**

In accordance with Management Directive 8.8, "Management of Allegations," it is the policy of the NRC to review allegations and consider appropriate enforcement action, when warranted. The allegations must be reviewed as expeditiously as resources and other priorities allow - normally, the goal is to complete the review within six months of receipt by the office assigned responsibility for review.

An alleged is not a confidential source unless a written confidentiality agreement has been issued. However, it is the policy of the NRC to take all reasonable efforts to prevent disclosure of the identify of an alleged to any individuals or other organizations outside the NRC unless (a) the alleged indicates no objection to being identified, (b) disclosure is necessary to ensure public health and safety, inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, (c) the alleged has taken actions that are inconsistent with NRC protection of the alleged's identity, (d) disclosure is necessary to pursue an enforcement hearing, or (e) disclosure is necessary in furtherance of a wrongdoing investigation, including an investigation of harassment and intimidation. All potential licensee and contractor wrongdoing matters must be promptly provided to the Office of Investigations (OI). OI, in consultation with the technical and legal staff, will determine if an investigation of wrongdoing matters (including harassment and intimidation) should be conducted.

All allegations of wrongdoing by NRC employees or NRC contractors that arise within the context of an allegation will be handled in accordance with NRC Announcement No. 14, dated February 16, 1996. Such allegations will normally be handled outside the allegation review process. Supplemental information is provided in Office Letter No. 1004, "NRR Handling of Allegations of Improper Actions by NRC Staff Involved in License or Inspection Activities."

#### **BACKGROUND**

Since December 1982, the NRC has followed procedures approved by the Executive Director for Operations (EDO) for the handling of allegations. In June 1987, NRC Manual Chapter 0517, "Management of Allegations," was issued to all NRC employees. NRC-0517 was revised and reissued on April 3, 1990. Reviewed and approved by the Commission, NRC-0517 codified the Commission's policies with regard to handling of allegations, confidentiality for allegeders, and staff interface with the OI. The Appendix to NRC-0517 established the procedures and guidelines for implementing the Commission's policies in these areas. Revision 1 to Office Letter No. 1003 was issued on December 31, 1990, to reflect the revision to NRC-0517. On May 1, 1996, MD 8.8 was issued. MD 8.8 replaced NRC-0517 in its entirety. This office letter extensively references those policies and procedures issued in MD 8.8 and provides guidance on the implementation of MD 8.8 in NRR.

## DEFINITIONS

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 term includes all concerns identified by sources such as individuals or organizations and technical audit efforts from Federal, State, or local government offices regarding activities at a licensee's site. Excluded from this definition are technical or regulatory inadequacies provided to NRC staff by licensee managers acting in their official capacity<sup>1</sup>; matters being handled by more formal processes such as 10 CFR 2.206 petitions, misconduct by NRC employees or NRC contractors; non-radiological occupational health and safety issues; and matters involving law enforcement and other Government agencies.

An emergency situation is one in which, in the opinion of the senior technical staff knowing of the situation, a *present* danger to public health or safety or to the common defense requires the release of investigative information to a licensee without the delay necessary to consult with appropriate OI personnel. Such information must be kept to the minimum necessary to immediately protect the public.

## RESPONSIBILITIES AND AUTHORITIES

### Office of the Director, NRR

- a. Approves all policies and procedures concerning the management of allegations in NRR.
- b. Approves all confidentiality agreements issued by NRR.
- c. Approves all referrals to the Office of the Inspector General (OIG) initiated in the allegation review process.
- d. Informs the Director, Office of Investigations (OI), *in advance*, when information that may compromise an investigation must be released to a licensee.
- e. Informs the Director, OI, and the EDO that information that may compromise an investigation *has been* released, in an emergency situation, to a licensee.

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<sup>1</sup>This exclusion is intended to clarify that technical or regulatory inadequacies discussed during official routine conversations between licensee managers and NRC staff members are normally not intended to be treated as allegations. However, if the information provided by the licensee manager concerns a wrongdoing issue or the manager expresses dissatisfaction with the licensee's handling of the issue, or the matter relates to another facility, the information should be treated as an allegation.

The NRR Allegation Review Board directs and oversees the allegation management process in NRR. Among other things, the Board does the following:

- a. Reviews each new allegation considered for NRR action to determine the appropriate resolution plan (including the degree of regional office and/or licensee involvement), approves schedules, and establishes review priority.
- b. Reviews assignments of allegations to NRR branches for resolution.
- c. Determines the potential safety significance of each allegation.
- d. If OI has not determined an investigation is warranted, discusses the need for OI consideration. Under normal circumstances, NRR will already have advised OI if wrongdoing is suspected. The need for notifications may arise within the context of an allegation or may come to the staff's attention through other means.
- e. On the recommendation of the Office Allegations Coordinator (OAC), reviews actions taken by the assigned branch or project directorate and approves a revised review plan or closure when the proposed closure differs substantively from the approved resolution plan.
- f. Reconvenes to review allegations open for more than 180 days to determine the reasons for the delay in resolution and to focus management attention on these issues, as necessary. Such reviews will occur every 4 months, commencing when the allegation is 6 months old. However, this review would not normally include matters under review by OI or the U.S. Department of Labor (DOL).
- g. Recommends NRR priorities for OI cases and reviews those priorities periodically for revision, if appropriate.

NRR Division Directors (As Appropriate)

- a. Ensure that the policies and procedures in MD 8.8 and in this office letter are implemented by division managers, supervisors, and staff.
- b. Review all closure letters to allegeders and letters that provide results of review, including interim reports, after concurrence by the OAC.
- c. Approve formal notifications to OI, with input on priorities from the ARB.
- d. Project Division Directors participate, as required, as members of the ARB.

- e. Technical Division Directors are invited to attend meetings of the ARB when allegations within their purview are discussed and are expected to attend the third and subsequent status ARB meetings on allegations not yet closed.

NRR Branch Chiefs and Project Directors

- a. Ensure that their staff are familiar with the policies and procedures in MD 8.8 and in this office letter.
- b. Participate in the ARB process, as required.
- c. For allegations assigned to their branches or project directorates, propose resolution plans for consideration by the ARB and ensure that the resolution plan approved by the ARB is followed and the schedule for resolution is met.
- d. Prepare letters to allegeders to advise of allegation receipt, status, or closure.
- e. Approve and sign other correspondence that leaves the office involving allegations, following concurrence by the OAC and Division Director, as required.
- f. Ensure that all suspected or potential wrongdoing issues that surface outside the allegation process (i.e., through inspection findings) are brought to the attention of OI on a timely basis. Such issues will also be brought to the attention of the ARB for recommendation of prioritization to OI.
- g. Advise the OAC of notifications to OI by the branch or project directorate.
- h. Prepare formal OI notifications and referrals, if required.

Director, Division of Reactor Program Management (DRPM)

- a. Administers the allegation review program in NRR, in accordance with MD 8.8 and this office letter.
- b. Serves as Chair of the ARB.
- c. As Chair, ARB, assures that safety significance, resolution plan, review priority, and wrongdoing matters are considered for each allegation.

NRR Office Allegations Coordinator

- a. Provides advice, guidance, and assistance to NRR management and staff in the implementation of the policies and procedures in MD 8.8 and in this office letter.

- b. Serves as the central control point for allegations assigned to NRR.
- c. Reviews NRR correspondence involving allegations that leaves the office, including letters to allegeders and letters to licensees and vendors referring allegations.
- d. On receiving information about suspected wrongdoing violations from NRR staff, notifies OI or confirms with OI that notification has been given.
- e. Prepares letters to allegeders to advise of review, status, or transfer of resolution responsibility to another office.
- f. Requests TAC numbers for allegations assigned to NRR for review.
- g. Maintains the official agency files on allegations assigned to NRR.
- h. Assists the Chair of the ARB.
- i. Performs other OAC duties as described in MD 8.8.

All NRR Employees

- a. Maintain a working knowledge of the policies and procedures in MD 8.8 and this office letter.
- b. Record the receipt of new allegations in as much detail as possible, using Attachment 2, "Allegation Data Receipt Form," or equivalent.
- c. Provide information received regarding suspected wrongdoing to OI or to the OAC promptly following receipt.
- d. Guard the identity of allegeders in accordance with policies and procedures in MD 8.8 and this office letter.
- e. Provide all information received on allegations directly to the OAC within 5 days of receipt of the allegation.
- f. Ensure that correspondence to and from allegeders and similar allegation material receive appropriate limited distribution (e.g., is not placed in the public document rooms, docket files, central files, or the Document Control System).
- g. Consult the OAC when in doubt regarding whether a matter is an allegation or when uncertain of the procedure to follow.

In addition, senior technical staff may, in an emergency situation, release information that may compromise an investigation to a licensee. (See Basic Requirements, paragraph g.) In such situations, the Project Manager (or other assigned person) is responsible for documenting any release of information

that may compromise an investigation, to a licensee or vendor, including the preparation of notices to the EDO and the Director, OI, for the signature of the Director, NRR.

### BASIC REQUIREMENTS

#### a. Receipt of Allegations

Any NRC employee may receive an allegation. Accordingly, all employees must maintain a working knowledge of the NRC policies and employee responsibilities for the receipt, control, and processing of allegations. Attachment 1 is a flow chart that depicts the allegation review process. Employees are responsible for ensuring protection of the identity of an alleged, as well as information that could compromise the identity of an alleged. Therefore, only persons involved in the review and processing should participate in discussions or handle documentation concerning allegations.

NRR employees who receive allegations verbally will record the information on an "Allegation Data Receipt Form," Attachment 2, or equivalent, and provide this form, along with any other information or material related to the allegation, directly to the OAC within 5 days of receiving the allegation. During the initial contact with the alleged, the alleged must be informed of NRC identity protection provisions and limitations. (See Attachment 3 for a discussion of the information to be provided to the alleged.) The original copy of allegations submitted in writing by an alleged, including the envelope, will also be given to the OAC within 5 days of receipt. No copies are to be made. (NRR employees working with the regions as part of a region-based inspection program should provide this information to the regional OAC.) The OAC will distribute copies, as needed, to the appropriate management for review and discussion of the safety significance of the allegation during the ARB meeting.

As stated above, the individual receiving the allegation shall notify OI and the OAC of allegations of suspected wrongdoing promptly after receipt. This notification may be a telephone call or a brief memorandum with copies of telephone conversation records or allegation receipt documentation. (See Management Directive 8.8, Part IV.)

#### b. Determination of Action Office

On receiving an allegation, the OAC will determine the most appropriate action office for resolution. Normally, allegations regarding a specific reactor or material facility are referred to the appropriate regional office or the Office of Nuclear Materials Safety and Safeguards, respectively. Allegations against a reactor vendor, or those involving interpretation of license conditions or technical specifications, and generic issues are usually handled by NRR. If the OAC determines that the allegation

should be assigned for resolution outside NRR, the OAC will initiate discussions with the proposed action office. If that office agrees to accept the allegation, the allegation will be transferred by the OAC. The OAC will also ensure that the alleged is advised of the new point of contact, if necessary.

All allegations not assigned to other offices or regions will be assigned by the OAC to an NRR branch or project directorate for resolution. The OAC will also advise the ARB Chair of the receipt of the allegation and will arrange an ARB meeting.

TAC numbers are used in NRR to record time spent on reviewing allegations. The OAC will secure a TAC number from the Division of Inspection and Support Programs and will inform the cognizant staff of the number. Resources expended during allegation resolution activities are not charged to licensees.

c. Action by the Allegation Review Board

The ARB consists of (1) the Director, DRPM, who will serve as Chair; (2) the OAC; and (3) an NRR Projects Division Director or designated Deputy Director. Normally, the Projects Division Director is selected by the OAC according to the reactor facility involved. When a reactor facility is not involved, the Projects Division Director will be selected on a rotational basis. In the absence of the Director, DRPM, the Deputy Director, DRPM, will be the alternate chair.

Prior to the meeting, the technical contact will prepare an allegation briefing sheet and provide it to the OAC. Attachment 3 is a copy of the format for the briefing sheet. The briefing sheet must be completed and returned to the OAC no later than two days prior to the meeting to allow timely distribution by the OAC to the ARB prior to the meeting. At the ARB meeting, the Branch Chief or Project Director assigned to act on the allegation will review the allegation with the ARB, discuss the potential safety significance, propose a resolution plan and schedule, and make a recommendation on the need for licensee referral and OI involvement. The ARB will approve a resolution plan and review schedule and will determine the potential safety significance. The ARB will also assign a priority to resolving the allegation in accordance with the priority ranking system established by the Director, NRR, in his memorandum of June 6, 1993, to staff regarding the priority ranking system for review efforts. Allegations assigned as Priority 3 will have a completion target date of six months or less.

Although the staff may notify OI directly of an allegation if the staff suspects wrongdoing, the OAC should also be informed so that the ARB can consider the allegation. OI will advise the OAC of its decision whether to initiate an investigation. If OI plans to initiate an investigation, a formal referral will not be necessary. In those rare occasions where

OI does not plan to initiate an investigation and the ARB recommends that an investigation is needed to determine whether regulatory action is required, the ARB will discuss with OI the basis for the recommendation of initiation of an investigation. If this matter is not resolved at this level, it may be considered by NRC senior management (See Management Directive 8.8.)

d. Allegation Review Board Meetings

As determined by the ARB Chair, other Division Directors, Branch Chiefs, or other NRR staff may be required to participate in the ARB proceedings. Cognizant technical Division Directors are invited to ARB meetings; and the Director, OI, will be advised of all ARB meetings and invited to attend. The Office of Enforcement and the Office of the General Counsel are invited to meetings when an allegation involves issues within their purview. The Chair will determine at the beginning of each ARB meeting if sufficient personnel are available to conduct the business of the ARB. The ARB is required to meet within 30 days of receipt of an allegation for which (1) NRR is the action office, or (2) no agreement has been reached on assigning it to another action office.

If during the review of an allegation, the branch or project directorate assigned by the ARB to act on the allegation determines that the appropriate closure differs substantively from the resolution plan approved by the ARB, the ARB will normally, on the recommendation of the OAC, reconvene to review the revised closure action. The OAC may also recommend that the ARB reconvene for other reasons; for example, if information becomes available that changes the safety significance of the allegation or new technical or wrongdoing information becomes available. Individuals responsible for resolving the allegations should come to the ARB meeting prepared to (i) discuss the safety significance of the allegation, assuming that the allegation is true, (ii) recommend a priority for an OI investigation (see Part (IV)(A)(5) of MD 8.8, if applicable), and (iii) justify their decisions in (i) and (ii). If a referral to a licensee or vendor is recommended or there is a recommendation that OI consider an issue for investigation, the review group should be prepared to discuss the rationale for the proposal.

e. Action by the Assigned Branch or Project Directorate

The NRR branch or project directorate assigned action on the allegation will make its best efforts to resolve the allegation and bring it to final closure in accordance with the resolution plan and schedule approved by the ARB. In its resolution activity, a branch may receive new allegations. The branch should discuss this situation as soon as possible with the OAC. Normally, allegations of a similar nature or involving the same

system or plant function will be documented by the receiving party and incorporated as part of the original allegation by the OAC. However, these allegations may be addressed separately if different allegeders are involved, if it is not feasible to incorporate the new allegations into the continuing resolution effort or if consideration of unrelated new matters would significantly delay closure of the original allegation. The ARB will reconvene to discuss the safety significance and proposed resolution of the new allegations.

Similarly, an inspection or other resolution activity may uncover evidence of wrongdoing or impropriety by the licensee or vendor that was not a part of the original concern. When NRR personnel uncover such information, they will contact their management as soon as possible for guidance on proceeding with resolution activity. Management should consult with OI promptly to determine the proper course of action. However, all parties should exercise caution to avoid compromising a subsequent investigation by OI. Management shall also assure that the OAC is informed. The OAC will confer with the Chair. The OAC will arrange the ARB meeting, if requested by the Chair, ARB.

f. Documentation

No informal transmittal of documents from the NRC to licensees or vendors will occur. Correspondence addressed to reactor licensees must be signed by the appropriate projects organization. Copies of letters from allegeders, in whole or in part, will not be forwarded to licensees or vendors. The referral may contain language similar to the allegations, but care must be taken to avoid inadvertent disclosure of information that could reveal the identity of the allegeder. All documentation involved in the allegation resolution process which contains the identity of the allegeder will have limited distribution. Copies will not be placed in the Document Control System (DCS), the NRC Public Document Room (PDR), Local PDRs, or the docket files. Access to this information will be on a need-to-know basis. Copies of correspondence will not be placed in files (including branch reading files) accessible to individuals who do not have the required need to know. Distribution within NRC will be made using "Addressee Only" envelopes. The OAC will receive copies of all correspondence on allegations.

Questions on Freedom of Information Act (FOIA) applicability should be referred to the OAC or to the NRC Agency Allegations Advisor.

Because of the sensitive nature of allegations, the inclusion of allegations in daily or weekly highlight reports requires the approval of the Office Director. If it is determined that senior management should be apprised of specific allegation information,

consideration should be given to issuance of a note or an "Executive Team Only" highlight. The technical substance of any matter may be included in daily or weekly highlights if the information is obtained from a source other than an alleged.

All of the following documents will become part of the permanent allegation file maintained by the OAC.

1. Allegation Data Receipt Form and Allegation Briefing Sheet

As stated earlier, allegations received verbally by NRR employees will be documented on an Allegation Data Receipt Form (Attachment 2) or equivalent and will be handcarried by the recipient directly to the OAC or forwarded in an "Addressee Only" envelope within 5 days of receipt. The briefing sheet will be prepared prior to the ARB meeting.

2. Incoming Correspondence

The recipient will provide the originals of all incoming correspondence or E-mails from alleged, including any envelopes, and copies of all correspondence from the licensee or the vendor concerning allegations to the OAC for incorporation in the allegation file.

3. Acknowledgment Letters

The OAC or the assigned branch or project directorate will prepare and issue a letter to the alleged within 30 days of the receipt of the allegation by NRR. The letter will acknowledge receipt of the allegation, establish a contact person for further correspondence, provide the staff's understanding of the allegation, invite the alleged to clarify or correct the staff's interpretation, discuss NRC identity protection provisions and limitations, and provide additional information as needed. If the alleged believes he or she has been discriminated against as a result of raising safety concerns, the letter will also advise the alleged of the right to file a complaint with the U.S. Department of Labor.

Attachment 4 is a sample of the format for an acknowledgment letter. Acknowledgment letters will be signed by the Branch Chief or Project Director who has the lead responsibility for allegation resolution, or the OAC. The OAC and the lead Branch Chief or Project Director will be placed on concurrence for these letters. In some cases it is necessary to call the alleged to obtain more precise information on the allegation prior to issuance of the acknowledgment letter. All telephone calls to alleged must be documented as described in item 4 below.

4. Meetings and Telephone Contacts with Allegers

When it is necessary to contact an allexer by telephone or to meet with an allexer (e.g., to clarify an allegation), the results must be documented by the assigned branch or project directorate. This documentation may consist of a memorandum to the OAC, a Record of Conversation (Optional Form 271), or a letter to the allexer.

5. ARB Meeting Summaries

The meeting summaries of the ARB will be prepared by the OAC and approved by the Chair, ARB. These summaries will identify (1) the allegation; (2) the safety significance of each concern; (3) the facilities involved; (4) the NRR branch or project directorate assignment; (5) the resolution plan, resolution schedule, and technical review priority; (6) the potential wrongdoing information and OI notification; (7) recommended priority level for OI investigation (if applicable); (8) whether the allegation should be referred to the licensee or vendor; (9) basis for ARB decision for items (5) through (8); and (10) any other comments that the ARB wishes to make concerning the allegation.

Meeting summaries will be distributed to the Executive Team, cognizant Division Directors, Branch Chiefs or Project Directors, the Director, OI, the Director, Division of Operational Assessment of AEOD, the OAC, and the meeting participants. Attachment 5 provides the format to be used for ARB meeting summaries.

6. Letters to Licensees, Applicants and Vendors

Letters to the licensees, applicants, or vendors concerning allegations or referring allegations for review will be signed at the Branch Chief or Project Director level. The OAC will be placed on concurrence for these referral letters.

For referrals to vendors and licensees, the description of the allegation should be marked "NOT FOR PUBLIC DISCLOSURE." The letters should state that the concerns are the result of an allegation and the allegation number will be noted on the letter. In addition, vendors and licensees should be told not to docket their responses. The response is to be sent to the office/region contact designated in the letter with no other copies to the NRC, i.e., the document control desk.

7. Notifications to OI

As stated in Part IV of Management Directive 8.8, it is the responsibility of the staff to promptly notify OI of suspected wrongdoing information. The notification may be as informal as a telephone call or note to OI. OI will consult with the technical

and legal staff and evaluate the information and other relevant information in deciding whether to initiate an investigation. However, the ARB may determine or OI may request that formal notification should be made in certain instances. If so, a memorandum will be issued by the cognizant Division Director to the Director, OI.

8. Closure Documents

Within 30 workdays of when the NRC has completed action on the allegation, the assigned branch or project directorate will issue a closeout letter to the alleged, to be signed by the Branch Chief or Project Director, detailing the action taken by the NRC on the allegation and enclosing any related inspection reports, safety evaluations, or staff analyses that support the allegation resolution. In certain instances such as where there is little technical content, the closeout letter may be signed by the OAC. Inspection reports and other documents may be used to address and resolve certain items and need not acknowledge that the issue was raised in the context of an allegation. The OAC and the cognizant Division Director will be placed on concurrence for all status reports and closure letters to alleged. Attachment 6 is an example of a closure letter to an alleged.

If the alleged is anonymous, the closure document will be a memorandum to the OAC and will include the same information as closure letters to alleged. Closure letters may be issued by the Branch Chief or Project Director having resolution responsibility but will be concurred in by the appropriate Division Director. In some cases, the OAC may recommend that the closure document be held for review by the ARB to determine the adequacy of the resolution effort. The closure document will always be held for ARB review if the closure differs substantively from the resolution plan. Attachment 7 is an example of a closure memorandum.

9. Disclosure to Licensees or Vendors of Pending Investigations and/or Criminal Referrals

1. In most cases, the review of technical issues and the conduct of investigative activities proceed in parallel. For example, an inspection or technical review may be conducted at the same time as investigation activities are in process. In such cases, the staff must coordinate with OI to avoid compromise of an OI investigation. Information regarding a pending or ongoing investigation by OI is normally released to a licensee only if OI determines that such release will expedite the investigation. Normally, referrals to licensees regarding a technical or safety issue will not reveal investigative activities. When information that must be released to the licensee or vendor will present the risk of compromising an investigation, the Director, NRR, shall

inform the Director, OI, *in advance* that information related to an open investigation is being considered for release to the licensee or vendor because safety or security concerns require initiation of corrective actions before the investigation report is published.

The Director, OI, will review the information to be released and advise the Director, NRR, of the anticipated effect of its release on the course of the investigation. The Director, NRR, will release the information only after determining that the safety or security concerns are significant enough to justify the risk of compromising the effectiveness of the pending investigation and, possibly, subsequent enforcement or prosecution options. Any such release of information should be recorded in the investigation report.

In the event of an emergency, or a significant safety or security issue that appears to require immediate action, senior technical staff, at their discretion, may discuss with, show to, or provide to the licensee or vendor any pertinent material they believe the circumstances warrant. If time permits, NRR management should be consulted before such action is taken. Examples of such types of emergency situations are those that involve a potential radiation overexposure to personnel or a potential release of radioactivity to the environment. For example, if an NRC employee knew, through an investigation, that falsified calculations were used to determine the radioactivity of the contents of a tank and there was a clear potential for the release of the contents to the environment, the NRC employee should proceed with action to stop the release immediately. Likewise, if an NRC employee who, solely because of information gained from an investigation, was in a position to prevent a radiation overexposure to someone, the NRC employee would intervene even though the intervention might compromise the investigation.

As soon as practical after a release of investigations information in such an emergency situation, NRR management, including the Director, NRR, shall be informed of the details regarding the information disclosure. The Director, NRR, will inform the EDO and the Director, OI. In all other instances where there is not an immediate danger to public health and safety, the staff is required to consult with OI before releasing investigations information.

As previously stated, generally there should be no need to indicate the fact that an investigation is underway when information is provided to licensees pertaining to potential safety concerns or to obtain correction of a specific technical issue. However, when for the reason stated above, the Director, NRR, decides after

this decision and the basis on which the delay is found to be consistent with public health and safety should be documented and the decision reexamined every three months to ensure its continuing validity. The Project Manager (or other assigned reviewer) is responsible for ensuring that this reexamination takes place and is documented.

The fact that a particular matter has been or will be referred to the Department of Justice (DOJ) should never be disclosed to the licensee by other than OI or the DOJ itself. A reply of "I cannot comment on such matters" is appropriate in most cases.

#### h. Identity Protection and Confidentiality

1. It is the policy of the NRC to protect the identity of *all* *allegers*. For the majority of the individuals bringing their concerns to the NRC, the staff will make *reasonable efforts* (as summarized below and as defined in the Commission's policy statement on confidentiality and in MD 8.8) to protect the *alleger's* identity. Reasonable efforts include the following:
  - a. The need-to-know principle will be applied; that is, the identity of an *alleger* or other identifying particulars will not be unnecessarily used in internal NRC discussions and documents.
  - b. Copies of letters from *allegers*, in whole or in part, will not be forwarded to licensees or vendors. The referral may contain language similar to the allegations, but care must be taken to avoid inadvertent disclosure of information that could identify the *alleger*.
  - c. Documents that contain the identity of the *alleger* will be placed in secure storage when not under the personal control of the user.
  - d. Inspection reports, safety evaluations, and other publicly available documents will not contain the identity of *allegers*.
  - e. Draft documents will be discarded as soon as possible.
  - f. Documents containing the identity of the *alleger* will be hand-delivered or securely wrapped and marked "Addressee Only."

- g. Information that could reveal the identity of the alleged will usually be withheld under FOIA.
  - h. Responses to specific questions from outside the NRC will not acknowledge that an individual is an alleged. NRC policy is to neither confirm nor deny that an individual is an alleged, usually by a statement to the effect that "we do not comment on such matters."
- 2. An alleged will be informed that NRC will take all reasonable measures to protect the alleged's identity unless the alleged has clearly indicated no objection to being identified, the alleged has taken actions that are inconsistent with and override the purpose of protecting the alleged's identity, or disclosure is necessary because of (1) an overriding safety issue, (2) an order of a court or NRC adjudicatory authority, (3) an enforcement hearing, (4) a need to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, or (5) investigation of a wrongdoing issue, including harassment and intimidation.
  - 3. When the protective measures summarized in items 1 and 2 are considered insufficient to protect the identity of an alleged, the agency may consider granting *confidential source status* to an alleged. As defined by MD 8.8 and by the Commission's policy statement on confidentiality, a confidential source is an alleged who has signed a written Confidentiality Agreement with an authorized NRC official. In NRR, the authorizing official is the Director, NRR. All requests for confidential source status should be directed to the OAC. The staff is not authorized to grant confidential source status.
  - 4. The recipient of an allegation should not raise the subject of confidentiality. Questions regarding confidentiality should be addressed to the OAC.

#### EFFECTIVE DATE

This office letter revision is effective immediately.

**REFERENCE**

Management Directive 8.8, "Management of Allegations"

Attachments:

1. Allegation Review Chart
2. Allegation Data Receipt Form
3. Allegation Briefing Sheet
4. Sample Acknowledgment Letter
5. ARB Meeting Summary Format
6. Closure Letter
7. Closure Memorandum

cc w/attachments:

J. Taylor, EDO  
J. Milhoan, DEDR  
H. Thompson, DEDS  
T. T. Martin, RI  
S. Ebnetter, RII  
H. Miller, RIII  
L. Callan, RIV  
J. Blaha, EDO  
G. Caputo, OI  
J. Lieberman, OE  
L. Chandler, OGC  
P. Norry, ADM  
SECY  
OGC  
PUBLIC



• **POSTERS: BEST OF 2 DAYS PRIZE TO BE AWARDED**  
**RECEIPTS MAY BE USED ON QUALIFYING**

LIMITED DISTRIBUTION

ALLEGATION DATA RECEIPT FORM

Date & Time  
Received: \_\_\_\_\_

Allegation  
Number: \_\_\_\_\_  
(leave blank)

Allegation received from: \_\_\_\_\_

Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

Job title: \_\_\_\_\_

Employed by: \_\_\_\_\_

Facilities  
Involved: \_\_\_\_\_

Alleger's Preference for Method and Time for Further Contact:  
\_\_\_\_\_

Details of Allegation: (Ask: Who? What? Where? When? How? Why?)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(attach additional pages, if necessary)

Identity Protection Procedures and Limitations

Inform alleger of the following: An alleger is not considered a confidential source unless a confidentiality agreement has been signed by NRC and the source. NRC will take all reasonable measures to protect the alleger's identity unless the alleger has clearly indicated no objection to being identified, the alleger has taken actions that are inconsistent with and override the purpose of protecting the alleger's identity, or disclosure is necessary because of (1) an overriding safety issue, (2) an order of a court or NRC adjudicatory authority, (3) an enforcement hearing, (4) a need to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, or (5) investigation of a wrongdoing issue, including harassment and intimidation.

DOL Rights (if applicable)

If you believe you have been discriminated against for engaging in a protective activity, you may have personal remedies through the U.S. Department of Labor. The complaint must be submitted in writing within 180 days of occurrence of the discriminatory act to ensure that your personal employee rights are protected. The complaint should be filed with your local DOL office or with the Office of the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room 83502, 200 Constitution Avenue, NW, Washington, DC 20210.

Employee receiving allegation: Name \_\_\_\_\_  
Organization: \_\_\_\_\_ Phone: \_\_\_\_\_

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ATTACHMENT 2

SENSITIVE PREDECISIONAL INFORMATION - NOT FOR PUBLIC DISCLOSURE

ALLEGATION BRIEFING SHEET

Prepared by (Name)

(Date)

1. ALLEGATION NO. (if known):
2. FACILITIES/ORGANIZATIONS:
3. STATEMENT OF ALLEGATION(S):
4. BACKGROUND:
5. DISCUSS POTENTIAL SAFETY SIGNIFICANCE, INCLUDING BASIS:
6. NEED FOR OI INVESTIGATION AND PRIORITY (High/Medium/Low or N/A):
7. PROPOSED TECHNICAL REVIEW PRIORITY:  
\_\_\_\_ (1) High Priority (immediate action required)  
\_\_\_\_ (2) High Priority Near Term (short-term action required)  
\_\_\_\_ (3) Low Priority (longer-term action required)
8. REGULATORY ASSESSMENT:
9. NON NRR ISSUES (OGC, OE, REGION, ETC.)
10. PROPOSED RESOLUTION PLAN AND TARGET DATES:

SENSITIVE PREDECISIONAL INFORMATION - NOT FOR PUBLIC DISCLOSURE

SAMPLE ACKNOWLEDGMENT LETTER

SUBJECT: (Facility Name)

Dear \_\_\_\_\_

This letter acknowledges receipt of your letter dated \_\_\_\_\_. We have decided to address the issue(s) you raised in our allegation review process. The first step in that process is to confirm with you the issue(s) you wish to have evaluated by the U.S. Nuclear Regulatory Commission (NRC). Our understanding of your concern(s) is as follows:

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_  
\_\_\_\_\_
5. \_\_\_\_\_  
\_\_\_\_\_

If the above summary of your concerns is incorrect, please contact me within two weeks at 800-368-5642. If you prefer, you may mark corrections on this letter and return it to us.

The next step in our review process is to conduct a detailed review of the issue(s) you raised. Resolution of your concern(s) has been assigned to the \_\_\_\_\_ Branch/Directorate. Our goal is to complete the review within 180 days. Upon completion of our review, we will inform you in writing of the results.

For your information, the following is a discussion of our routine procedures for handling issues such as those you raised. Although you are not a confidential source unless a written confidentiality agreement has been issued, it is the policy of the NRC to take all reasonable efforts to prevent disclosure of your identity to any individuals or other organizations outside the NRC unless (a) you indicate no objection to being identified, (b) disclosure is necessary to ensure public health and safety, inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, or to support a hearing on an enforcement matter, or (c) you have taken actions that are inconsistent with NRC protection of your identity. If we determine that an investigation of wrongdoing matters (including harassment and intimidation) should be conducted, it may be necessary to disclose your identity.

In some instances, we request licensees or vendors to address concerns. If we do so for the issue(s) you brought to our attention, your identity will not be disclosed. The response by the licensee or vendor will be evaluated as a part of our review.

If a request is filed under the Freedom of Information Act related to your area of concern, the information provided will, as allowed by that Act, be purged of your name and other potential identifiers.

If you have any questions or additional information concerning the above, please let us know. Thank you for contacting us regarding the above concern(s).

Sincerely,

Office Allegation Coordinator,  
Project Director, or Branch Chief

Distribution: Reviewer (redacted copy) and Allegation Coordinator  
Concurrence must include the Allegation  
Coordinator and review Branch Chief or Project Director

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ALLEGATION REVIEW BOARD  
SUMMARY

Allegation Number NRR-XX-A-XXXX  
TAC No.

1. The NRR Allegation Review Board met on (date) at (time).
2. Present at the meeting were: (list of attendees).
3. Facilities/organizations involved:
4. Allegation title: (insert abbreviated description)
5. This allegation has been assigned to (branch or project directorate) for resolution.
6. The ARB determined the concerns identified in the allegation to be safety significant/of no safety significance/of potential safety significance based on \_\_\_\_\_.
7. The ARB assigned this allegation a Priority Level of (1-3) after consideration of its safety significance based on \_\_\_\_\_.
8. (Potential wrongdoing issues)
9. The following resolution plan and schedule was approved by the ARB:

	<u>Activity</u>	<u>Due Date</u>
a.	Acknowledgment letter	
b.	Referral to licensee/vendor	
c.	Inspection	
d.	Etc.	
e.	Closure letter	

10. The basis for the above resolution activities is as follows:  
\_\_\_\_\_  
\_\_\_\_\_

11. Additional comments:  
\_\_\_\_\_  
\_\_\_\_\_

12. Prepared by: \_\_\_\_\_ Date \_\_\_\_\_  
Office Allegation Coordinator
13. Approved by: \_\_\_\_\_ Date \_\_\_\_\_  
Chairman, ARB

Distribution:  
NRR Executive Team  
Director, OI  
Cognizant Division Director  
DOA Director, AEOD  
Chief, Assigned Branch or Project Directorate  
NRR OAC  
Meeting Participants  
Allegation File No. NRR-XX-A-XXXX

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ATTACHMENT 5

ATTACHMENT 6



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 22, 1995

MEMORANDUM TO: Jean Lee  
Office Allegations Coordinator

FROM: [REDACTED]

SUBJECT: ALLEGATION ON [REDACTED]  
(ALLEGATION NO. NRR-94-A-0076)

In late 1994, an allegor raised a concern during a casual conversation regarding the [REDACTED] manufactured by [REDACTED], Inc., for motor-operated valves (MOVs) installed in nuclear power plants. Although the allegor initially indicated that he would provide additional information, he did not respond to repeated attempts to contact him by telephone to solicit the information. As the allegor did not provide a mailing address, the resolution of this issue cannot be provided to him.

On August 8 and 9, 1995, the NRC staff conducted an inspection at the office of [REDACTED] in [REDACTED] to evaluate this and other [REDACTED] issues. Attached is a copy of the NRC report documenting the staff's findings. As discussed in the inspection report, the NRC staff has confirmed the allegation that the [REDACTED]

[REDACTED] states that it believes that the [REDACTED]. During the inspection, the staff found that [REDACTED] did not have adequate documentation for its position. Therefore, in the inspection report, the staff cites, as a nonconformance, the failure of [REDACTED] to [REDACTED]

Nuclear power plant licensees have been informed of the [REDACTED]. The staff will alert licensees to the findings from the inspection at [REDACTED] at the next [REDACTED] meeting. We will also discuss this issue with the region staff for their information.

J. Lee

2

Overall, we believe that the [REDACTED]  
[REDACTED]. We will ensure that licensees are alerted to this  
potential safety concern through meetings and inspections. This completes our  
evaluation of the allegation.

CONTACT: [REDACTED]

Attachment: As stated