From:
To: <nrcrep@nrc.gov>
Date: Fri, Sep 29, 2000 12:59 PM
Subject: Discrimination Task Group

Below is the result of your feedback form. It was submitted by

Affiliation: Private concerned Citizen

Comments: In May 1996, the Commission issued a policy statement on the "Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation" [FR 24336]. Under 'Background Information', the policy statement says the following:

"The use of a holding period should be at the discretion of the employer and not be considered by the NRC in evaluating the reasonableness of the licensee's action."

With regards to this, I recommend that the appropriate congressional and/or regulatory action be to taken to establish a regulatory requirement for a 'holding period/temporary injunction' for any licensee attempting to discharge an employee who has a discrimination allegation currently filed and open with the NRC, and/or that it also be applied to persons alleging unlawful termination under 10CFR50.7. The 'temporary injunction process' would include the current 'purported' OSHA policy to attempt resolution between the parties.

This recommended process would replace the current 30 day DOL-OSHA investigation, that is currently performed (at least in my case) by a single individual without a nuclear background, with no understanding of radiation and radiation safety, no understanding of NRC licensing and design requirements, etc., etc. DOL-OSHA does not appear to have the 'tool box' needed to effectively deal with these types of nuclear matters. It was a mistake to add yet another bureaucratic rung to the discrimination ladder.

For employees with outstanding discrimination complainants with the NRC or DOL, the licensee would be precluded from terminating the employee (any loss of pay, rights, privileges, etc.) until the temporary injunction hearing was held and completed. It would be the employee's responsibility to inform the regulatory agency of the licensee's action. It would then be the regulatory agency's responsibility to inform the licensee of the requirement to halt termination until the matter is reviewed by judicial authority in a temporary injunction hearing. For employees without a current complaint with the NRC or DOL, but who alleges unlawful discriminatory termination under 10CFR50.7, I would suggest that an employee would have 5 working days to file a "Request for a Temporary Injunction" Hearing.

The remaining DOL case process would continue to apply.

The playing field is currently heavily tilted in the licensee's favor. A licensee obtains considerable benefit if it 'railroads' an employee off site. The terminated employee no longer has access to persons, places or things. In my opinion (at least in my case) OSHA did not have the tools to review the matter in an adequate manner. Once an employee is offsite, the licensee will 'grind' the employee down (money, time, resources, etc.). A temporary injunction process would go a long way in leveling the playing field for the two parties. Such a regulatory requirement could serve to encourage nuclear worker reports of safety concens. and thus serve the public benefit.

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