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65FR 6399
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Chief, Rules and Directives Branch,
Division of Administration Services,
Office of Administration, Mail Stop: T-6 D59,
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Sir:

**Subject: Comments on the Allegations Program Under the New
Regulatory Oversight Program (65 Federal Register 6399 dated
Wednesday, February 9, 2000)**

Attached please find Arizona Public Service Company's (APS) response to the solicitation of comment noticed in 65 Federal Register (FR) 6399, dated Wednesday, February 9, 2000. The subject notice requested comments regarding proposed changes to the NRC's allegation program under the new regulatory oversight program. APS is pleased to offer comments on such an important issue.

As a general comment, it is APS' position that the NRC's allegation program should be revised to parallel the new regulatory oversight program and as such should be risk informed to the maximum extent possible. Likewise, APS endorses the Nuclear Energy Institute's position on this matter. It is our belief that by focusing staff (and licensee) resources on risk significant issues, the NRC can be more responsive in fulfilling its mission of protecting public health and safety.

In accordance with the solicitation for comment, APS has followed the suggested format, being as specific as possible and providing examples where possible. If you have questions regarding our comments, please contact Angela Krainik at 623-393-5421. APS makes no commitments in this letter.

Sincerely,

AKK/ras

[Redacted]

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AD1103

U. S. Nuclear Regulatory Commission
Comments on the Allegations Program Under the New Regulatory Oversight Program
(65 Federal Register 6399 dated Wednesday, February 9, 2000)
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cc: E. W. Merschoff
M. B. Fields
P. H. Harrell
J. H. Moorman

**APS' Comments on the Allegations Program Under
the New Regulatory Oversight Program**

65 Federal Register dated February 9, 2000

Comments on the Allegations Program Under the New Regulatory Oversight Program

Question 1: *Which of the four Options¹ contained in the Commission paper will strike the best balance between the efficient use of agency resources and the need for allegeders to feel the NRC will address their issue(s) and protect their identity, if they so desire?*

Response 1: It is APS' position that all allegations should be evaluated in accordance with the significance determination process and follow-up action (if required) should be commensurate with the risk significance of the issues that have been identified. However, APS also recognizes the industry and agency need to promote safety conscious work environments and the need to be flexible in the application of risk significance when resolving allegations. Therefore, APS believes a modified Option 3 would be the best option for achieving the needed balance between the efficient use of agency and licensee resources and the need for the NRC to protect the identity of allegeders.

Specifically, APS proposes that Option 3 be adopted with addendum of the communication features of Option 4. That is, the staff would contact the allegeder and (1) express appreciation for the allegeder raising the issues and encourage the allegeder to raise issues in the future, (2) explain the Significance Determination Process and the risk significance assigned to the issues raised by the allegeder, and (3) explain the staff's intent to take no action for issues with no risk significance and to refer issues with low risk significance to the licensee for review and inclusion in the corrective action program, if appropriate. If the allegeder is satisfied with the explanation and proposed action, the staff will send a letter to the allegeder documenting the staff's intent and the allegeder's agreement. The low risk significance issues would then be referred to the licensee.

This "modified" option would satisfy both the need to protect the identity of the allegeder while alleviating the (agency and licensee) need to provide technical resources to investigate low safety significant issues.

Question 2: *Does one of the Options for implementing the allegation program provide more adequate assurance that the NRC can be more certain that through information provided by allegeders, plants are being operated safely?*

Response 2: APS has (other than publicly available studies and audits conducted by or for the commission) limited knowledge of information that is provided to the NRC by allegeders and therefore can not speak to the certainty of the information or to what assurances might be derived from such information.

¹ SECY 99-273, November 23, 1999

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Question 3: *Does one of the Options for implementing the allegation program under the new oversight process enhance public confidence by increasing the predictability, consistency, clarity and objectivity of the NRC's allegation process?*

Response 3: APS has no accurate gauge by which to measure the public's confidence in the NRC allegation process, but suggests that the modified Option 3 outlined above would result in the desired objective to enhance public confidence by increasing the predictability, consistency, clarity and objectivity of the NRC's allegation process.

Additionally, APS has reviewed the Status of Allegation Program Fiscal Year 1999 Annual Report² and believes the audit results included within the report confirm that process improvements implemented by the agency have resulted in improved communications between NRC staff and alleged and likewise will result in enhanced public confidence.

Question 4: *Does one of the Options for implementing the allegations program under the new oversight process improve the efficiency and effectiveness of the regulatory process focusing agency resources on those issues with the most safety significance?*

Clearly those options (3 and 4) that center on the significance determination process will improve the effectiveness of the regulatory process and will yield the maximum benefits in efficiency.

Question 5: *Does one of the Options for implementing the allegation program under the new oversight process reduce unnecessary regulatory burden on licensees?*

Option 3 will reduce the burden of technical resources used to investigate and resolve allegations and the expected licensee savings should parallel the savings projected by the NRC's staff should this option be adopted.

Question 6: *What Options, beyond those stated in the Commission paper, should be considered?*

APS proposes that Option 3 be adopted with addendum of the communication features of Option 4. That is, the staff would contact the alleged and (1) express appreciation for the alleged raising the issues and encourage the alleged to raise issues in the future, (2) explain the Significance Determination Process and the risk significance assigned to the issues raised by the alleged, and (3) explain the staff's intent to take no action for issues with no risk significance and to refer issues with low

² ADAMS Accession Number ML993620572.

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risk significance to the licensee for review and inclusion in the corrective action program, if appropriate. If the allegor is satisfied with the explanation and proposed action, the staff will send a letter to the allegor documenting the staff's intent and the allegor's agreement. The low risk significance issues would then be referred to the licensee.

In addition, APS believes that a gradual implementation of these changes would be less likely to produce an adverse reaction.

Question 7: Should the Commission implement any changes in the allegation program for all reactor licensees or should any changes be implemented in a pilot program before being implemented at all reactor facilities?

Response 7: APS believes the proposed risk informed changes be implemented through a pilot program.