

July 27, 2000

MEMORANDUM TO: David L. Meyer, Chief
Rules and Directives Branch, ADM

FROM: Richard W. Borchardt, Director /RA/
Office of Enforcement

SUBJECT: FEDERAL REGISTER PUBLICATION OF DISCRIMINATION
TASK GROUP MEETING NOTICE

Attached is a *Federal Register* notice (FRN) and diskette to publish a meeting notice for the Discrimination Task Group. Please forward the attached notice for publication in the *Federal Register*.

If you have any questions, please contact Barry Westreich of my staff at 415-3456.

Attachments: As stated

DISTRIBUTION:
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7/ 19 /00	7/ 20 /00

NUCLEAR REGULATORY COMMISSION
DISCRIMINATION TASK GROUP

Announcement and Meeting Notice

This Notice serves to announce the formation of an NRC Discrimination Task Group, which will evaluate the NRC processes used in the handling of discrimination allegations and violations of employee protection standards (Applicable regulations include 10 CFR 30.7, 10 CFR 40.7, 10 CFR 50.7, 10 CFR 60.9, 10 CFR 61.9, 10 CFR 70.7, 10 CFR 76.7, 10 CFR 72.10, 10 CFR 150.20). The group will function as a management-level review group to evaluate the Commission's handling of discrimination cases. The overall objective of the NRC employee protection regulations is to promote an atmosphere where employees feel comfortable raising safety concerns or engaging in other protected activity without fear of reprisal. Because the NRC has traditionally relied on the openness of employees to identify issues, an effective and consistent NRC approach for dealing with discrimination cases is an important feature of encouraging and ensuring a safety conscious work environment. Resulting enforcement actions need to be predictable, fair and able to withstand scrutiny, since they could result in civil penalties, orders, or actions to individuals and are viewed by stakeholders as an indicator of the seriousness with which the NRC views discrimination issues.

The group's overall objective is to develop recommendations for revisions to the regulatory requirements, the enforcement policy or other agency guidelines as appropriate. A Commission Paper will be developed outlining the recommendations for NRC offices to consider in making changes to their processes.

The group's preliminary schedule is:

- Evaluation of current NRC processes. July- Sept., 2000
- Conduct Stakeholder meetings. August, 2000 - April, 2001
- Review of other federal agency processes. Oct.-Dec., 2000
- Develop recommendations for process improvements. Jan.- March, 2001.
- Provide Commission draft recommendation. April, 2001
- Draft recommendations issued for comment. May- June, 2001
- Issue Report with recommendations. June 30, 2001

Task group activities being considered include:

1. Interaction with other agencies (such as Federal Aviation Administration, Department of Labor, Food and Drug Administration, Department of Agriculture, National Institutes of Health, Center for Disease Control, Department of Energy, and Office of Special Counsel) to understand how they process these issues.
2. Conduct internal and external stakeholder meetings to solicit input on the Agency's handling of discrimination issues.
3. Consider the issues raised in the Petition for Rulemaking "Employee Protection Training", Docket PRM-30-62, 64 Fed. Reg. 57785 (Oct. 27, 1999), regarding requiring training of first line and above supervisors of their responsibilities in implementing the employee protection regulations.

4. The review will also:
 - a) Evaluate the current NRC processes for dealing with discrimination matters.
 - b) Determine whether the Enforcement Policy supplements need to consider a more graded approach regarding the appropriate enforcement sanction given the specific facts of the case, rather than the current supplement guidance which largely relies on the individual's position. Examples of guidance to consider revising include consideration of the severity of the adverse action, and better defining thresholds for taking individual action.
 - c) Consider changes to the current enforcement process in discrimination cases, such as the usefulness of pre-decisional Enforcement Conferences and settlement discussions.
 - d) Evaluate the process used for DOL deferrals.
 - e) Evaluate the release of documents prior to final action being taken.
 - f) Evaluate the reliance on regulations such as 10 CFR 50.5 for Individual Actions and evaluate revising 10 CFR 50.7 to include individual actions.
 - g) Clarify how the NRC should use the decisions of other Agencies(e.g.,

DOL, MSPB).

- h) Review the role of the complainant in the process.

The Task Group meeting participants are listed below along with their affiliation:

Bill Borchart-	Director, Office of Enforcement, Nuclear Regulatory Commission
Dennis Dambly-	Assistant General Counsel for Materials Litigation and Enforcement, OGC, Nuclear Regulatory Commission
Cynthia D. Pederson-	Director, Division of Nuclear Materials Safety, Region III, Nuclear Regulatory Commission
Barry Letts-	Field Office Director, Office of Investigations, Region I, Nuclear Regulatory Commission
Edward Baker-	Agency Allegation Advisor, Nuclear Regulatory Commission
Brad Fewell-	Regional Counsel, Region I, Nuclear Regulatory Commission

Over the next several months the Task Group plans to hold several public stakeholder meetings in various areas of the country to solicit input on areas of improvement in the Agency's handling of discrimination issues.

The following public meeting shave been scheduled:

The first public meeting will be held on September 5, 2000, at the USNRC offices in the TWFN Auditorium, located at 11555 Rockville Pike, Rockville Maryland. The meeting will start at 01:00 p.m.

- A public meeting will be held in Chattanooga TN, on September 7, 2000, at the USNRC Technical Training Center, Osborne Office Center, 5746 Marlin Road, Chattanooga TN 37411
This will be an evening meeting beginning at 7:00 p.m.

- A public meeting will be held in San Luis Obispo CA, on September 14, 2000, at the Embassy Suites Hotel, 333 Madonna Road. This will be an evening meeting beginning at 7:00 p.m.

Subsequent workshops in the vicinity of the Milestone Nuclear Power Plant, the Paducah Gaseous Diffusion Plant and in the Chicago area will be announced in the Federal Register, local newspapers and on the NRC web site as specific plans are made.

These public meetings are open to the members of the public. Oral or written views regarding the NRC's processes for handling employee protection issues may be presented by the members of the public, including members of the nuclear industry. Persons desiring to make prepared oral presentations or statements should notify Mr. Barry Westreich (Telephone 301/415-3456, e-mail BCW@nrc.gov) five days prior to the meeting date, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such a presentation or statements. Use of still, motion picture, and television cameras as well as audio recording devices will be permitted during this meeting.

Further information regarding topics of discussion; whether the meeting has been canceled, rescheduled, or relocated; may be obtained by contacting Mr. Barry Westreich between 8:00 a.m. and 4:30 p.m. EDT.

This meeting will not be transcribed but, if needed, a meeting report will be available electronically for public inspection in the NRC Public Document Room or from the Publicly

Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). The Task Group Charter and other pertinent documents related to Task Group Activities will also be periodically posted and updated on the Office of Enforcement Web site at <http://www.nrc.gov/OE>. For those unable to attend one of the public meetings on this issue, comments on the discrimination process will be solicited in the Federal Register in the future.

/RA/

R. W. Borchardt, Director
Office of Enforcement

Dated this 27th day of July 2000