

ALLEGATION DISPOSITION RECORD

Rev.

10/01/96

97-A-0126

Allegation No.: RI-97-A-0033 Branch Chief (AOC): Rogge

Site: FitzPatrick Acknowledged: Yes

Panel Date: 5/21/97 Confidentiality Granted: No

Issue discussed (if other than original allegation):

Alleger contacted prior to referral to licensee (if applicable)?

ALLEGATION PANEL DECISIONS (Previous Allegation Panels on issue: Yes)

Attendees: Chair - Hehl Branch Chief(AOC) - Rogge SAC - Vito
OI Rep. - Wilson RI Counsel - Fewell Others - Barkley, Modes

DISPOSITION ACTIONS: (State actions required for closure (including special concurrences), responsible person, ECD and expected closure documentation)

1) Split out issues received on or after 4/25/97 into a new allegation file to ensure that the allegation can be addressed in a timely manner. The issues are categorized and numbered via a chart prepared by Rich Barkley.

Responsible Person: Vito/Barkley ECD: 5/25/97

Closure Documentation: Completed:

2) OI to interview alleger and others whom he identified were harassed and intimidated.

Responsible Person: Letts ECD: 6/21/97

Closure Documentation: Completed:

3) DRP (with DRS assistance) to complete review of items #1-#8 (i.e. issues received prior to 4/25/97)

Responsible Person: Huness ECD: TBD

Closure Documentation: Completed:

4) DRP (with DRS technical support) to resolve issues #9 - #20; refer issues denoted in attached list if permitted to do so by the alleger.

Responsible Person: Huness ECD: TBD

5) DRP to coordinate with DRS to schedule inspection activities. Inform SAC of dates established (Ruland and Kelley).

Responsible Person: Rogge/Barkley ECD: 6/15/97

Closure Documentation: Completed:

6) DRP residents to review Speak Out concern. Provide date to SAC

Responsible Person: Rogge/Barkley ECD: TBD

Closure Documentation: Completed:
Safety Significance Assessment: High - The number of issues is quite large; alleger is persistent and technically knowledgeable; Most of the issues raised involve NRC regulated activities

Priority of OI Investigation High

Alleger Contacted prior to referral to licensee? Not vet, but will do so soon

NOTES: Large number of technical, narrowly focused concerns

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Issue not to be referred to licensee

- A. Region 1 should refer as many allegations as possible to the licensee for action and response unless any of the following factors apply:
- Information cannot be released in sufficient detail to the licensee without compromising the identity of the alleged or confidential source (unless the alleged has no objection to his or her name being released).

- The licensee could compromise an investigation or inspection because of knowledge gained from the referral.
- The allegation is made against the licensee's management or those parties who would normally receive and address the allegation.
- The basis of the allegation is information received from a Federal agency that does not approve of the information being released in a referral.

Even if the above conditions exist, Region 1 shall refer the substance of the allegation to the licensee regardless of any factor if the allegation raises an overriding safety issue, using the guidance in Management Directive 8.8.

Factors to Consider Prior to Referral to a Licensee

In determining whether to refer eligible allegations to a licensee, The Region 1 Allegation Panel shall consider the following:

- Could the release of information bring harm to the allegor or confidential source?
- Has the allegor or confidential source voiced objections to the release of the allegation to the licensee?
- What is the licensee's history of allegations against it and past record in dealing with allegations, including the likelihood that the licensee will effectively investigate, document, and resolve the allegation?
- Has the allegor or confidential source already taken this concern to the licensee with unsatisfactory results? If the answer is "yes," the concern is within NRC's jurisdiction, and the allegor objects to the referral, the concerns should normally not be referred to the licensee.
- Are resources to investigate available within the region?

Prior to referring an allegation to a licensee, all reasonable efforts should be made to inform allegors or confidential sources of the planned referral. This notification may be given orally and subsequently documented in an acknowledgement letter. If the allegor or confidential source objects to the referral, or does not respond within 30 calendar days, and the NRC has considered the factors described above, a referral can be made despite the allegor's or confidential source's objection or lack of response. In all such cases, an attempt will be made to contact the allegor by phone just prior to making the referral.

Also, referrals are not to be made if it could compromise the identity of the allegor, or if it could compromise an inspection or investigation. Note: Document the basis for referring allegations to a licensee in those cases where the criteria listed above indicate that it is questionable whether a referral is appropriate.

Distribution: Panel Attendees, Regional Counsel, OI, Responsible Persons (original to SAC)

Options for Resolution:

Licensee Referral (Div. Dir. Concurrence Required (First Consider Factors Prior to Referral) / Document NRC Review of Response - Resp. - AOC)

Referral to Another Agency (OSHA, etc. - Resp. - SAC)

Referral to an Agreement State (MD, ME, NH, NY, RI - Resp. - SAC)

Referral to Another NRC Office (OIG, NRR, Other Regions - Resp. - SAC)

Request for Additional Info. (From allegor, licensee, others - Resp. - AOC)

Closeout Letter/Memo (If no further action planned - Resp. - AOC)

Inspection (Resident/Specialist routine or reactive)

IF H&ID INVOLVED:

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| 1) has the individual been informed of the DOL process and the need to file a complaint within 180 days (has DOL information package been provided?) | Yes | No |
| 2) has the individual filed a complaint with DOL   | Yes | No |

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|---|-----|----|
| 3) if the complainant filed directly with DOL, have they been contacted to obtain their technical concerns (Resp. - SAC)          | Yes | No |
| 4) is a chilling effect letter warranted:<br>(DOL finding in favor of allegor)<br>(conciliation w/licensee prior to DOL decision) | Yes | No |

ADDITIONAL NOTES: \_\_\_\_\_

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