

ALLEGATION DISPOSITION RECORD

Rev. 6/6/97

Allegation No.: RI-98-A-0016

Branch Chief (AOC): Linville

Site: Salem/Hope Creek

Acknowledged: No

Panel Date: February 3, 1998

Confidentiality Granted: No

Issue discussed (original allegation): Licensee's Employees Concerns Program did not adequately address alleged's concerns that VT2 testing for ASME certification is improper by not allowing use of a flashlight or magnifying glass during weld inspections (it is up to the licensee to determine means for qualifying inspectors). No overall unified standard exists for certification of visual inspectors. Subsequently, Alleged's employment was terminated after 18 years, following initiation of Action Request documenting VT2 testing concerns, and he claims H&I.

Alleged contacted prior to referral to licensee (if applicable)? No, alleged does not object to referral to licensee.

ALLEGATION PANEL DECISIONS (Previous Allegation Panels on issue: No)

Attendees: Chair - Crlenjak Branch Chief(AOC) - Linville SAC - Vito/Modes
OI Rep. - Logan RI Counsel - Fewell Others - Harrison, Nicholson, Meyer

DISPOSITION ACTIONS: (State actions required for closure (including special concurrences), responsible person, ECD and expected closure documentation) NOTE: If filling out electronically, use a larger, bold font to aid individuals in reading this material.

- 1) **Acknowledgment letter** - DRS to provide input on VT exam. Reference past review of ECP and found to be acceptable.

Responsible Person: Harrison/Meyer
Closure Documentation: _____

ECD: 2/13/98
Completed: _____

- 2) **OI investigation for H&I.**

Responsible Person: Letts
Closure Documentation: _____

ECD: TBD
Completed: _____

- 3) **Refer ECP issue to licensee.**

Responsible Person: Harrison
Closure Documentation: _____

ECD: 2/13/98
Completed: _____

- 4) **DRP/DRS (VT2 issue) to review licensee response**

Responsible Person: Linville/Meyer
Closure Documentation: _____

ECD: 4/15/98
Completed: _____

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Safety Significance Assessment: Potential H&I

Priority of OI Investigation High - where a history of findings of discrimination (by DOL or the NRC) or settlements suggests a programmatic rather than isolated issue

ARB MINUTES ARE REVIEWED AND APPROVED AT THE ARB

NOTES: (Include rationale for any referral to licensee, and identify any potentially generic allegations)

Regional Counsel reviewed Action Request and concluded that the alleged engaged in protected activity.

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 alleged or confidential source?
- Has the alleged 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 alleged 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 alleged 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 alleged or confidential sources of the planned referral. This notification may be given orally and subsequently documented in an acknowledgment letter. If the alleged 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 alleged's or confidential source's objection or lack of response. In all such cases, an attempt will be made to contact the alleged by phone just prior to making the referral.

Also, referrals are not to be made if it could compromise the identity of the alleged, 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 alleged, 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 |
| 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:
(DOL finding in favor of alleged)
(conciliation w/licensee prior to DOL decision) | Yes | No |

ADDITIONAL NOTES: _____
