ALLEGATION DISPOSITION RECORD

Allegation No.: RI- 98-A-0004
Site: Salem/Hope Creek
Panel Date: 7/31/98

Branch Chief (AOC): Linville
Acknowledged: Yes
Confidentiality Granted: No

Issue discussed: **Panel for closure. This repanel to discuss OI's closure of case on normal priority. Alleger has settled case out of court and withdrawn DOL complaint involving PSE&G not renewing his seasonal work contract based on his identification of a cocaine-like substance in an onsite locker.**

Alleger contacted prior to referral to licensee (if applicable)? N/A

ALLEGATION PANEL DECISIONS (Previous Allegation Panels on issue: Yes)
Attendees: Chair - Crlenjak Branch Chief(AOC) - JLinville SAC - Vito/Modes
OI Rep. - Letts RI Counsel - _____ Others - Nicholson, Holody, LHarrison

DISPOSITION ACTIONS:

1) **Panel discussed issuing a chilling effect letter and based upon OI's input and information provided to date, there is no need to send a chilling effect letter. Send Closeout letter to alleger.**

Responsible Person: L.Harrison
ECD: 8/21/98
Closure Documentation: _____
Completed: _____

Safety Significance Assessment: _____

Priority of OI Investigation _____

If potential discrimination or wrongdoing and OI is not opening a case, rationale is: _____

ARB MINUTES ARE REVIEWED AND APPROVED AT THE ARB

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

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 alleger or confidential source (unless the alleger has no objection to his or her name being released).

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- 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 alleger or confidential source?

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

Also, referrals are not to be made if it could compromise the identity of the alleger, 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 alleger, licensee, others - Resp. - AOC)

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

Inspection (Resident/Specialist routine or reactive)

IF H&ID INVOLVED:

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: Yes No
(DOL finding in favor of alleger)
(conciliation w/licensee prior to DOL decision)

Possible reasons OI will not open a case:

1. Based on legal review, information provided is insufficient - not a clear nexus between the adverse action and protected activity (30.7 or 50.7). (not a prima facie case)

2. Lacking specific evidence of wrongdoing. More information needed before OI will consider opening a case.

3. Clear evidence of wrongdoing. Staff can proceed through the enforcement process.

ADDITIONAL NOTES: _____

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