
ALLEGATION PROGRAM PERFORMANCE

The Commission established the allegation program to provide a vehicle for individuals working in the Nuclear Regulatory Commission (NRC) regulated activities and members of the public to provide safety and regulatory concerns directly to the NRC. The program includes a database that allows the staff to track concerns submitted to the NRC to ensure that the concerns are evaluated in a timely manner, consistent with their associated safety or risk significance, and that the results of NRC's evaluation are communicated to the individual who submitted the concerns, when possible and appropriate.

Program performance is measured against goals for protecting the identity of allegeders and conducting an appropriate review of all allegeder concerns in a timely manner. It is the goal of the agency that no allegeder's identity is inappropriately released. Timeliness goals have been established for substantive points in the process, including the convening of an initial Allegation Review Board to specify actions to evaluate the concerns, and submitting correspondence to the allegeder to initially acknowledge and ultimately close the concerns. The quality of the staff's review of concerns raised and its correspondence with allegeders regarding those concerns are assessed during the program assessments.

Allegation Program Implementation Assessments

Since the mid-1990's, it has been the Agency Allegations Advisor's (AAA) and the Office of Enforcement's (OE) practice to conduct annual on-location assessments of each regional and program office's handling, documentation, tracking, and evaluation of allegations received during the past calendar year. In recognition that allegation program implementation assessments over the past several years have indicated that the regions and program offices are consistently meeting or exceeding the performance and quality requirements of Management Directive 8.8, "Management of Allegations," it was determined that a reduction in on-location assessment frequency was prudent. Effective in Calendar Year (CY) 2006, the on-location allegation program implementation assessments for the regional and program offices are being conducted by OE biennially. In those years, and for those regional and program offices for which an on-location allegation program assessment is not completed by OE, a self-assessment of their implementation of the allegation program will be conducted and submitted to the AAA for evaluation.

In April 2006, OE provided the regional and program offices guidance for conducting an allegation program self-assessment. In essence, the guidance recommended that the self-assessment include complete file reviews (similar to those performed during the OE on-location program assessments) of a small sample of allegation files closed in the previous calendar year (at least 5% (minimum of 2 files)) to assess the general implementation of program guidance. The self-assessment guidance recognized that the regional and program office allegation programs already include inherent continuing self-assessment through several means, including the monitoring of program metrics, periodic status assessment of open allegation files, quality reviews of closed allegation files, lessons-learned documentation related to identified problems, and selected self-assessments of certain program functions. The self-assessment guidance was not intended to replace these activities, but rather to encourage consistent

and continuous regional and program office efforts at monitoring program effectiveness. The self-assessment guidance emphasized that credit for continuing self-assessment activities can and should be taken in the regional or program self-assessment reports provided to the AAA.

The on-location assessments conducted by OE continue to review a 10% sample of allegation case files closed during the previous calendar year and include an assessment of performance goals, the quality of allegation evaluation and response, allegation review board quality, alleged identity protection, feedback to allegeders who respond after allegation closure, and general program oversight. In addition, special assessments will continue to be conducted as requested by the Office of the Inspector General (OIG), senior management, or as deemed necessary by OE. If, at any time, the results of an assessment (or self-assessment) indicate a notable decline in performance, OE reserves the right to resume annual on-location assessments for any or all of the regional and program offices. It is also noted that the regional and program offices may request an on-location assessment by OE in lieu of conducting a self-assessment, if so desired.

Consistent with the changes indicated above, in CY 2006, OE conducted on-location allegation program assessments in Region III, Region IV, and the Offices of Nuclear Reactor Regulation (NRR) and Nuclear Security and Incident Response (NSIR), for allegations closed in CY 2005. Self-assessments of allegation program implementation in CY 2005 were conducted in 2006 by Region I, Region II, and the Office of Nuclear Materials Safety and Safeguards (NMSS) and submitted to the AAA. In CY 2007, OE will conduct on-location allegation program assessments at Region I, Region II, and NMSS (which will include assessment of allegations that are the responsibility of the new Office of Federal and State Materials and Environmental Management Programs (FSME)). Allegation program self-assessments will be conducted in CY 2007 by Region III, Region IV, and NRR (which is to include self-assessment of allegations that are the responsibility of NSIR and the new Office of New Reactors (NRO)).

Results of Allegation Program Assessments and Self-Assessments for CY 2005

Alleged Identity Protection

One element of the allegation program that is essential to its credibility is protecting the identity of allegeders to the extent possible. The agency's goal is to have no substantiated complaints of the inappropriate release of an allegeder's identity as determined by either the OIG or the staff. Occurrences in 2005 involving challenges to allegeder identity protection are discussed below.

On one occasion, the staff was notified by a licensee that was the subject of a CY 2005 Freedom of Information Act (FOIA) request, that allegation information which fingerprinted the identity of an allegeder was released as part of the NRC's response to the FOIA request in February 2005. This information was brought to the attention of the NRC not by the allegeder or the FOIA requestor, but by licensee management. The information released related to a specific corrective action process document associated with the allegeder which was processed in CY 2000. To ensure the proper awareness to identity protection considerations during allegation-related FOIA reviews, this occurrence was discussed during several counterpart calls with agency allegation coordination personnel and the importance of attention to detail during such reviews was emphasized. In addition, OE is now collecting and trending information on

the types of errors identified during its final review of allegation-related FOIA material such that early actions can be taken to notify the originating regional or program office if adverse trends are noted.

In April and June 2005, allegation letters meant for one allegor were sent to the address of another allegor. The affected region determined that, when documenting receipt of the allegation, the staff used a previous allegation receipt form with another allegor's name and address on it. While the information pertaining to the subject of the concern and the allegor's name was revised from the previous version, the address of the previous allegor remained on the form. In response to this occurrence, the region emphasized with the technical staff that a boilerplate allegation receipt form which is in a "read-only" format should be used to document each new allegation, rather than writing over a previously used form. The allegors in question were both apologized to by the Region. Neither indicated they were concerned about the occurrence.

The circumstances and causes of the above noted occurrences, including occurrences or near misses in previous years, were reviewed by OE to determine whether a common cause or programmatic issue existed with regard to allegor identity protection. While no programmatic issues were identified, it was determined that these matters involved attention to detail issues which have been addressed by inserting administrative steps to provide more assurance that such errors will not be made. In December 2005, the AAA issued a memorandum to the allegation program staff documenting these events and OE's review for programmatic lessons learned. During a counterpart discussion involving the regional and program office allegation coordinators, practices that may be used to prevent these administrative errors were shared. In addition, the regional and program offices were asked to re-emphasize to their staff the need for heightened awareness to attention to detail issues related to allegation material, especially with regard to the protection of allegor identity.

Timeliness Goals

The initial Allegation Review Board (ARB) is conducted for the purpose of reviewing an allegation and assigning appropriate staff actions for follow up. The program requires an initial ARB to be held within 30 days of receiving an allegation in 100% of the cases. All 648 initial ARBs held in 2005 met this goal.

Initial correspondence with the allegor acknowledges receipt of the allegation and documents the specific concerns as understood by the NRC staff to ensure agreement prior to further staff action. The goals for the issuance of letters acknowledging the receipt of allegations are that 90 percent will be issued within 30 days and 100 percent will be issued within 45 days. The 45-day goal was established to account for more complex allegations which prompt additional staff contact(s) with the allegor to solicit more detailed and/or more specific information and ensure complete understanding of the allegor's concerns prior to sending the acknowledgment letter. Ninety-seven percent of the allegations received in 2005 were acknowledged within 30 days, and 99% were acknowledged within 45 days (5 letters were sent in greater than 45 days). As such, the agency goal for issuing 100 percent of these letters within 45 days was not met. The discrepancies are described in the following paragraph.

One letter was prepared by a regional office for the signature of the Chairman, and delays were encountered in moving the letter through the concurrence process. A lessons-learned review was conducted by the regional office, with assistance from OE, and corrective actions were developed and implemented. In another regional office, two instances occurred early in CY 2005 in which acknowledgment letters were not issued within 45 days because of Allegation Management System (AMS) coding errors causing regional staff not to recognize that an acknowledgment letter was required. The OE on-location assessment team acknowledged that regional staff, through self-assessment efforts, had already identified that additional actions were necessary to address identified problems in allegation processing at the region, including the accuracy of AMS data. In a third regional office, it was identified during an internal review of an allegation file that the AMS indicated that an acknowledgment letter had been sent, while no copy existed in the file. The alieger was contacted and indicated that he/she had not received a letter. A letter was provided shortly thereafter. The same regional office identified by internal review another instance in which an acknowledgment letter was not issued within 45 days when an allegation was mis-coded in AMS as a "non-allegation" and an action to issue an acknowledgment letter was not entered into the established electronic tracking mechanism (the AMS database automatically generates an action to issue an acknowledgment letter for any allegation involving a known alieger). This regional office identified the items contributing to the missed goal prior to conducting its allegation program self-assessment in CY 2006 and had already implemented corrective actions in an effort to preclude recurrence.

Regarding timeliness goals for closing technical, non-wrongdoing, allegations; the agency's goals are to close 70 percent of the allegations in 150 days or less; 90 percent of the allegations in 180 days or less; and 100 percent of the allegations in 360 days or less. As shown in the table below, 400 of the 402 allegations closed in CY 2005 were closed in 360 days or less. As such, the goal for closing 100% of technical allegations within 360 days was not met. The two allegations that were closed in 2005 in greater than 360 days were interrelated and involved a very complex technical matter. In addition to the complexity of the issue, other factors affected the protracted closure time for these allegations, including differences of opinion among the technical staff as to the approach to issue resolution, the formation of a special task group to resolve these differences, public meetings with vendors and a facility affected by the issue, and Advisory Committee on Reactor Safeguards discussion of the matter.

Time to Close								
Metric (Days)	Total	NMSS	NRR	NSIR	RI	RII	RIII	RIV
	402	0	21	7	111	95	89	79
70% ≤ 150	94% (377)		81% (17)	86% (6)	95% (105)	85% (81)	100% (89)	97% (77)
90% ≥ 151 ≤ 180	98% (394)		86% (18)	86% (6)	100% (111)	96% (91)	100% (89)	99% (78)
100% ≥ 180 ≤ 360	99% (400)		90% (19)	100% (7)	100% (111)	100% (95)	100% (89)	100% (71)

Quality Goal

The staff instituted a quality goal for the allegation program in CY 1999. Although somewhat subjective in nature, as part of routine program assessments and self-assessments, reviewers evaluate, in detail, a sample of closed allegation files to assess their quality. For the on-location OE allegation program assessments conducted at Region III, Region IV, and NRR/NSIR, a ten percent smart sample of the allegations closed in CY 2005 were reviewed to determine if staff follow up of allegations appropriately captured and responded to each issue raised in 90 percent of the allegations reviewed. In all, 30 files were reviewed during the on-location program assessments. With one exception, all of the concerns raised within the allegation files reviewed were adequately captured with adequate responses provided. Observations were made as to the overall quality of response in some instances. For the regional office that did not respond to one allegation concern, the OE on-location assessment team acknowledged that regional staff, through continuing self-assessment efforts, had already identified that additional actions are necessary to address problems with the quality of allegation responses, and the effectiveness of allegation status tracking. The region is continuing to pursue efforts to resolve noted problem areas.

During the allegation program self-assessments conducted at Region I, Region II, and NMSS, a total of 27 allegation files were reviewed. All of the concerns raised within these allegations files were determined to have been adequately captured with adequate responses provided. Based on the above, the quality goal with regard to the capture of and response to allegation concerns was met.

Staff Response to Allegor Communication After Closure

On September 5, 2002, the Executive Director for Operations issued a Commission Paper that recommended the staff discontinue the allegation program survey of allegers. The Commission approved the staff's recommendation as noted in SRM-SECY-02-0163 on October 4, 2002. The Commission stated that the staff should continue to monitor feedback received from allegers, and reconsider the need for a survey if the feedback indicates problems. As a result, the allegation program assessments and self-assessments now include a review of feedback from allegers and responses thereto. In all, 13 responses to the staff's closure of an allegation were reviewed during the OE on-location program assessments, and the regional and program self-assessments conducted in CY 2006, for allegations closed in CY 2005. Although observations were made as to the overall response quality in a few instances, all of the issues reviewed were found to have been adequately evaluated and respond to.