

March 6, 2008

TO: NRC POWER REACTOR LICENSEES, CATEGORY I FUEL CYCLE FACILITIES, CATEGORY III FUEL CYCLE FACILITIES, INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS, CONVERSION FACILITIES, AND ENRICHMENT FACILITIES

SUBJECT: CORRESPONDENCE WITH ALLEGERS INVOLVING SECURITY-RELATED CONCERNS

The purpose of this letter is to ask that facility managers responsible for protecting U.S. Nuclear Regulatory Commission (NRC) licensed facilities and materials inform their security staff about the NRC's revised correspondence policy with allegeders involving security-related concerns.

In the aftermath of September 11, 2001, the staff placed certain restrictions on the dissemination of sensitive security-related information outside the NRC in an effort to preclude the release of information potentially useful to adversaries. These controls were also applied to the information that was provided to allegeders who have raised security-related concerns to the NRC. Limiting the information shared with the allegeder, and in particular, withholding the staff's determination as to whether or not a security concern was substantiated, has made it difficult for the staff to assure individuals that their concerns have been addressed. Based on multiple allegations at NRC-licensed facilities in 2006, a number of concerned individuals (CIs) have expressed dissatisfaction with our limited responses. Some have engaged in more public venues in an attempt to obtain a more satisfactory response to their concerns.

Based on CIs expressing their dissatisfaction with the NRC's allegation process for security-related allegations, NRC staff proposed revising its guidance for handling security-related allegations correspondence as described in SECY-07-0032, "Recommended Staff Actions Regarding Correspondence With Allegers Involving Security-Related Concerns," dated February 12, 2007. The staff received the Commission's approval to revise the agency allegation guidance on March 28, 2007. The NRC believes that the new enclosed guidance, based on SECY-07-0032, provides an appropriate graded response to CIs based on the type of information provided and the access the individual has to sensitive information. In summary, for issues that do not represent potential generic security vulnerabilities, the staff will now discuss the details of agency actions and conclusions with security force personnel with access to such information. For issues that, if true, would be no more than a minor violation of NRC requirements, the staff will respond with NRC actions and conclusions to CIs. The NRC's goal is to be as responsive to a CI, as is possible, while continuing to protect any information that could be used by an adversary to exploit potential security vulnerabilities.

The NRC expects licensees, contractors, and their subcontractors to establish and maintain a "safety-conscious work environment" that encourages employees to raise safety/security-related or wrongdoing concerns to management or the NRC, free of fear of reprisal for doing so. It is

the policy of the NRC to encourage workers of NRC licensees to take technical, safety/security-related, and wrongdoing concerns to their own management first because the licensee has primary responsibility for ensuring safe and secure operation of the facility and use of nuclear materials, and in most cases, can promptly address issues through ready access to site personnel and documentation related to the concern. However, if security-related concerns are brought to the NRC, the new staff guidance should result in better communications with the CIs on agency actions and conclusions.

On November 8, 2007, the NRC conducted a security public meeting in which public stakeholders expressed a concern that the NRC may not have adequately informed security force personnel of the changes to the allegation program guidance. I am asking that you communicate to security force personnel at your facilities the enclosed guidance for handling allegations that involve sensitive security information. Although the NRC encourages employees to bring their concerns to the corrective action program or employee concerns program, individuals are free to raise their concerns directly to the NRC and the guidance has been revised to provide more information to those individuals.

Sincerely,

***/RA/***

Roy P. Zimmerman, Director  
Office of Nuclear Security  
and Incident Response

Enclosure: Allegation Program Guidance

cc: Licensee Security Managers

## Allegation Program Guidance

**Q: How will the NRC handle concerns, if they involve sensitive security information?**

A: If the concern involves security-related information, the NRC staff member receiving the concern will remind the CIs of the proper protocol for transmitting classified, Safeguards Information, or other information withheld from public disclosure. If the setting is inappropriate for transmitting such information, separate arrangements will be made to enable proper transmittal.

The NRC has revised the process for responding to security-related allegation concerns to provide more information to CIs, with provisions to provide more detailed information to current security officers, about the staff's evaluation and conclusions with regard to their concerns.

In the aftermath of September 11, 2001, restrictions were placed on the dissemination of sensitive security-related information outside the agency in an effort to preclude the release of information potentially useful to adversaries. These controls were also applied to the information that is provided to CIs raising security-related concerns to the NRC. The restrictions, however, made it difficult for the staff to assure CIs that their concerns were addressed. On March 28, 2007, the Commission approved revised guidance, described below and in SECY-07-0032, which the staff believes will allow a more responsive answer to an CI's concern, while continuing to protect any information that could be used by an adversary to exploit a potential security vulnerability.

Effective immediately, security-related allegation concerns received by the NRC will be grouped into three categories:

Category I - Concerns that involve a potential generic industry security vulnerability.

Category II - Security-related concerns that, if true, would constitute more than a minor finding or violation, as determined by applicable guidance or review panels.

Category III - Security-related concerns that, if true, would, at most, constitute a minor finding or violation, as determined by applicable guidance or review panels.

The staff will continue to provide limited information for both substantiated and unsubstantiated security-related concerns that involve potential generic industry vulnerabilities (Category I). Although the NRC is fully committed to the goal of ensuring openness in our regulatory process, the staff must balance that goal with overseeing the continued safety and secure operation of nuclear facilities and use of nuclear materials in our country. Normally, when the staff has completed review of an allegation, the CI is provided with information as to whether his or her concern was substantiated and details on the actions taken by the NRC to evaluate the concern. However, due to the nature of the security-related issues that fall into Category I, to ensure that the agency is not

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releasing information that could reveal potential generic security-related vulnerabilities, the staff will not provide specific details regarding the NRC's evaluation of the concerns.

For those site-specific, security-related concerns that, if true, would constitute more than a minor finding or violation, as determined by applicable guidance or review panels (Category II), the staff will provide a response to the CI once required compensatory actions, if any, are in place. The response will indicate that a security-related assessment was conducted, including a review of the specific concern raised, and will indicate whether any findings were identified. To ensure that the NRC does not release information that would reveal potential security-related vulnerabilities, the staff will not indicate whether any finding was specifically associated with the concerns raised by the allegor. If, however, the allegor requests additional information and the staff can verify that he or she is currently employed by an NRC licensee that is associated with the allegation concerns as a member of the security force with normal access to such information, the staff will offer to discuss the specifics of the agency's actions and conclusions with the CI. Employment and position verification will not be sought without prior permission from the CI.

Finally, for those security-related concerns that, if true, would, at most, constitute a minor finding or violation, as determined by applicable guidance and review panels (Category III), the staff will provide a complete response to the allegor, once required compensatory actions, if any, are in place. The response to both substantiated and unsubstantiated concerns will include a description of the actions taken by the staff to evaluate the concern and the staff's conclusion regarding the validity of the concern, but would not include a description of the compensatory actions taken. If follow-up of a security-related concern results in a minor finding or violation requiring compensatory actions, and if the CI requests additional information and the staff can verify that he or she is currently employed by an NRC licensee that is associated with the allegation concerns as a member of the security force with normal access to such information, the staff will offer to discuss the compensatory actions with the allegor. Again, employment and position verification will not be sought without prior permission from the CI.

Questions regarding this guidance change can be directed to the NRC's Allegation Coordinators by calling the Safety Hotline: 1-800-695-7403.

the policy of the NRC to encourage workers of NRC licensees to take technical, safety/security-related, and wrongdoing concerns to their own management first because the licensee has primary responsibility for ensuring safe and secure operation of the facility and use of nuclear materials, and in most cases, can promptly address issues through ready access to site personnel and documentation related to the concern. However, if security-related concerns are brought to the NRC, the new staff guidance should result in better communications with the CIs on agency actions and conclusions.

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**/RA/**

Roy P. Zimmerman, Director  
Office of Nuclear Security  
and Incident Response

Enclosure: Allegation Program Guidance

cc: Licensee Security Managers

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**ML080380024**

<b>OFC</b>	RSOB	RSOB	BC:RSOB	DD:DDSO
<b>NAME</b>	DFurst	FPeduzzi	BWestreich (FPeduzzi for)	RCorreia
<b>DATE</b>	1/24/08	1/24/08	2/6/08	2/12/08
<b>OFC</b>	DSO	BC:RSLPB	BC:FCTSB	NRR/ADRO/DPR
<b>NAME</b>	DDorman (RCorreia for)	DHuyck	RCaldwell (AFrazier for)	HNieh
<b>DATE</b>	2/12/08	2/13/08	2/13/08	2/19/08
<b>OFC</b>	D:NMSS	OE	OGC	NSIR
<b>NAME</b>	MWeber	LJarriel	CMarco (NLO)	RZimmerman
<b>DATE</b>	2/28/08	3/06/08	3/06/08	3/06/08

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