

*Review  
(regards to P.C. request)*

RP-8.17

**HANDLING OF ALLEGATIONS OF IMPROPER ACTIONS BY  
NRC STAFF OR NRC CONTRACTORS**

**Approved Date:** December 30, 2009

**Point of Contact:** Regional Counsel

**Supersedes:** RP 8.17, Dtd 10/11/2005

**Approval:** /RA/ by Cynthia D. Pederson for  
**Title:** Regional Administrator

**A. Purpose**

This procedure describes how Region III will receive, document, act on, resolve and/or forward to the Office of the Inspector General and other authorities, allegations of improper actions by an NRC staff member or NRC contractor. This same procedure will be used to process apparent improper activities identified by NRC staff and management.

For allegations of harassment, which includes any unwelcome verbal, visual, physical or other conduct based on race, color, religion, sex (whether or not of a sexual nature), national origin, age, disability, sexual orientation, or retaliation for participation in protected EEO activities, discontinue the use of this procedure and follow the procedures set forth in the NRC Policy on Preventing and Eliminating Harassing Conduct in the Workplace, if the allegation was raised by an NRC employee. If the allegor is other than a member of the NRC staff, address the allegation in accordance with this procedure.

**B. References**

1. Management Directive 8.17, "Licensee Complaints Against NRC Employees"
2. Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635
3. Supplemental Standards of Ethical Conduct for Employees of the NRC, 5 CFR Part 5801
4. NRC Inspection Manual Chapter 1201, "Conduct of Employees"
5. NRC Policy on Preventing and Eliminating Harassing Conduct in the Workplace:  
<http://www.internal.nrc.gov/HR/pdf/eliminating-harassment.pdf>

### **C. Discussion**

Allegations of improper action by an NRC staff member or NRC contractor may be made by a licensee; another NRC staff member; the news media; a member of a local, state or Federal government; or any other member of the public. The Office of Inspector General also may refer such an allegation to the region.

The Standards of Ethical Conduct for Employees of the Executive Branch are set forth in 5 CFR Part 2635. The NRC has also promulgated Supplemental Standards of Ethical Conduct for employees of the NRC as set forth in 5 CFR Part 5801. These standards are the governing regulations for employees' ethical conduct. Each Region III employee must abide by them. In addition, the Commission has issued management instructions regarding the conduct of employees who are involved in inspections (see NRC Inspection Manual Chapter 1201) and general implementing directions in M.D. 7, "Legal and Ethical Guidelines."

For allegations of harassment, which includes any unwelcome verbal, visual, physical or other conduct based on race, color, religion, sex (whether or not of a sexual nature), national origin, age, disability, sexual orientation, or retaliation for participation in protected EEO activities, discontinue the use of this procedure and follow the procedures set forth in the NRC Policy on Preventing and Eliminating Harassing Conduct in the Workplace, if the allegation was raised by an NRC employee. If the allegor is other than a member of the NRC staff, address the allegation in accordance with this procedure.

This policy is designed to provide a process for resolving allegations of improper action that is equitable to the staff member against whom the allegation is made, to the individual or organization making the allegation, and to the legitimate needs of the NRC.

NOTHING IN THIS PROCESS IS INTENDED TO LIMIT ANY LICENSEE, NRC EMPLOYEE OR MEMBER OF THE PUBLIC FROM CONTACTING THE OFFICE OF THE INSPECTOR GENERAL (OIG) DIRECTLY WITH THEIR CONCERN.

INDICATIONS OF FRAUD, WASTE, AND ABUSE BY NRC EMPLOYEES OR CONTRACTORS MAY BE REPORTED DIRECTLY TO OIG IN WRITING OR BY USING THE OIG HOTLINE: 800-233-3497.

### **D. Definitions**

For the purposes of this procedure, "Improper Actions" may include such things as:

1. **Misconduct:** Action or inaction by an employee that adversely affects the ability of NRC or one of its components to perform NRC's mission efficiently and effectively. Examples of conduct issues are misuse of position; fraud and other questions of honesty and integrity; waste and abuse; and conflicts of interest.
2. **Unacceptable Performance:** Failure of an employee to accomplish assigned duties or responsibilities. Performance issues are usually resolved as management issues (i.e., are not referred to OIG) and generally relate to the staff member's regulatory and technical competence.

## **E. Organizational Responsibilities**

1. **Regional Administrator (RA):** Responsible to assure the process is appropriately implemented and to approve the course of action proposed by the Deputy Regional Administrator (DRA) for resolution of the concern. The RA also assumes the role of the DRA when the allegation of improper action involves the DRA.
2. **Deputy Regional Administrator (DRA):** Responsible senior management representative (SMR) for implementing this process. The DRA/SMR is the principal official who oversees the implementation of this process in the region and serves as the focal point for communications with all organizations outside Region III and allegeders.
3. **Regional Counsel (RC):** Responsible for implementing the tasks in this process designated to the RC, including maintaining records and advising the staff on the standards of conduct. The RC serves as a backup to the DRA/SMR in his/her absence.
4. **Division Director or designee (DD):** Responsible for implementing portions of this process as tasked by the DRA/SMR.
5. **Human Resources Officer:** Responsible for providing the DD, DRA/SMR and RA with guidance on agency policy regarding disciplinary, adverse, or other appropriate personnel actions.
6. **NRC Staff Member:** Responsible for implementing the tasks designated in this process including prompt notification of the DRA/SMR upon receipt of an allegation.

## **F. Implementation**

A flow chart of this process is provided as an attachment to this policy guide and the process steps are discussed below.

1. Any NRC staff member approached by an individual with an allegation of improper actions by another NRC staff member or NRC contractor should inform the individual that he or she has the option of contacting OIG directly or of contacting the DRA/SMR who has the responsibility for implementing this process within Region III. If the allegeder decides to contact OIG, the staff member need only obtain the complainant's name and address and provide them to the OIG. The staff member will also fully brief the DRA/SMR who will ensure that OIG has all known information regarding the allegation. If the allegeder decides not to go to OIG directly, the NRC staff member receiving the allegation will:
  - a. Refer the individual to the DRA/SMR. In the event that the allegation involves the DRA/SMR, the RA will implement this policy guide and carry out the DRA/SMR functions specified. The NRC staff member should inform the allegeder of the appropriate initial contact as specified above.

In the event the allegor does not wish to contact the OIG or DRA/SMR directly, request that the allegor provide the allegation in writing in order to capture the concern accurately. If the allegor refuses, elicit as many specific details about the alleged improper actions as possible including the name, mailing address, and telephone number of the allegor as well as the names, addresses, and telephone numbers of other individuals who could provide additional or corroborating information. This information should be documented, including the circumstances under which the allegation was received and immediately forwarded to the DRA/SMR. In the absence of the DRA/SMR, the information will be forwarded to the RC. Although the recipient of the allegation should obtain all available information from the allegor, THE RECIPIENT IS NOT AUTHORIZED TO CONDUCT ANY FOLLOWUP ACTIONS.

- b. Inform the allegor that while his or her concerns will be handled discreetly, subsequent investigative actions may make it necessary to involve the allegor further. Additionally, the allegor should be informed that if an investigation is conducted on the allegation, the accused will be given details of the allegation for the opportunity to respond, and if the investigation results in a disciplinary or adverse action against the accused, the accused will have the right to ask the agency to provide the specifics of the allegation including the name of the allegor. If the allegor declines further involvement and does not want a response, inform the allegor that NRC will provide no feedback to the allegor.
- c. DO NOT DISCLOSE the identity of the individual(s) who is/are the subject of the allegation nor any details of the allegation to anyone other than the DRA/SMR or RC. Thus, all documentation of the allegation should be either personally handled or prepared and may even be in the personal handwriting of the recipient of the allegation or verbally passed on to the DRA/SMR or RC. If the initial referral was made verbally, the recipient of the complaint must document the allegation and forward this to the DRA/SMR or RC.

NOTE: With regard to issues that must be resolved immediately, such as fitness for duty of personnel prior to site access, any staff member may contact the "Management Chain" (i.e., branch chief, division management, or RA) if unable to reach the DRA/SMR promptly.

- 2. When the DRA/SMR is contacted by an allegor, the DRA/SMR will request that the allegor provide his or her allegation in writing in order to capture the concern accurately. If the allegor refuses, the DRA/SMR will elicit as many specific details about the alleged improper actions as possible including the name, mailing address, and telephone number of the allegor as well as the names, addresses, and telephone numbers of other individuals who could provide additional or corroborating information. If the allegor declines further involvement and does not want a response, the allegor should be informed that NRC will provide no feedback to the allegor.
- 3. Upon receipt of the allegation, the DRA/SMR will have the RC open a file. This will be in a numerical file system (MD817-YY [year]-XX [numbers to increase in

ascending order beginning with 01 and reverting to 01 at the beginning of each new calendar year], e.g., MD817-05-02 for the second allegation in 2005), and the files will not be identified by employee name or other personal identifier. The files must be kept in a locked file cabinet, drawer or safe when not under the personal control of the DRA/SMR or an authorized reviewer and must not be entered in ADAMS. Any formal records generated in reviewing the allegation will be maintained in the designated file for a period of five years. Following the five year retention, the records may be destroyed.

4. If the allegation relates to an NRC staff member from another office, the DRA/SMR will inform the appropriate SMR of that office. If the allegation relates to an NRC contractor, the DRA/SMR will inform the appropriate SMR of the office responsible for awarding the contract.

NOTE: All allegations of improper actions by NRC staff members or NRC contractors will be handled in a prompt manner. Time is of the essence in such matters because of the impact on the affected staff member and agency actions that may be required. All staff are advised that regional management expects these matters to be given high priority and resolved quickly. The goal for resolution is 120 days from receipt of the allegation.

5. Upon receipt of the information, the DRA/SMR will consult with the RC to determine the nature of the allegation (i.e., what was it that the employee was alleged to have done wrong and what standard or other requirement was violated). The DRA/SMR should also determine whether to issue an acknowledgment letter to the alleger based on the complexity of the concern and the expected time to complete the investigation. The DRA/SMR will:
  - a. Make a preliminary determination as to whether the allegation falls within one of the following categories:
    - i. alleged misconduct, or
    - ii. unacceptable performance

NOTE: For allegations of harassment, which includes any unwelcome verbal, visual, physical or other conduct based on race, color, religion, sex (whether or not of a sexual nature), national origin, age, disability, sexual orientation, or retaliation for participation in protected EEO activities, if the alleger is a member of the NRC staff, discontinue the use of this procedure and follow the NRC's policy on harassment if the allegation was raised by an NRC employee. If the alleger is other than a member of the NRC staff, address the allegation in accordance with this procedure.

- b. Contact the Assistant Inspector General for Investigations or the Senior Level Assistant for Investigative Operations to discuss the allegation and decide whether the matter should be handled by the OIG or the staff. The DRA should recommend to the OIG the staff's preference, but OIG's decision on the matter is final.

6. The DRA/SMR will proceed to Section F.8 of this procedure if the OIG declines involvement.
7. If the allegation is referred to the OIG, the disposition of the matter will be in accordance with M.D. 7.4, "Reporting Suspected Wrongdoing and Processing OIG Referrals." The DRA/SMR will have the RC document the referral in the file, and the file will be closed. The DRA/SMR will ask OIG whether the employee and/or additional line management can be informed of the allegation and its referral to OIG. Dissemination of information about the matter will depend on the legitimate interests of OIG and the mission-related needs of NRC. The DRA/SMR will document in the file OIG's position with regard to informing the employee and line management, and whether such information was provided and to whom. If, based on the nature of the allegation, there appears to be a need to evaluate whether the accused employee's duties should be modified, the DRA/SMR will notify OIG of the need to consult with the RA and appropriate DD. Decisions regarding modifications to an employee's assignments will be made in consultation with the RA, RC, DRMA, and appropriate DD unless OIG specifically objects to such consultation.
8. If the region is to resolve the allegation, the following guidance is provided:

**NOTE: ALL ALLEGATIONS OF IMPROPER ACTIONS BY NRC STAFF MEMBERS WILL BE HANDLED IN A PROMPT MANNER. THE GOAL FOR RESOLUTION IS 120 DAYS.**

- a. Did the allegor decline to be contacted and not desire a response from the NRC?
  - i. Yes - The DRA/SMR refers the allegation to the appropriate DD for discussion with the employee as appropriate. No further action is required through this policy guide (see flow chart for possible path after exiting this policy guide). If the DRA/SMR believes that the seriousness of the allegation warrants investigation through this policy guide, the DRA/SMR may continue with the process.
  - ii. No - Continue.
- b. Was the allegation received in writing?
  - i. No - The DRA/SMR may either refer the allegation to the appropriate division management for resolution, thus exiting the requirements of this policy guide (see flow chart for possible path after exiting this policy guide). If the DRA/SMR believes that the seriousness of the allegation warrants investigation through this policy guide, the DRA/SMR may proceed by documenting the allegation in a letter to the allegor or to file if the allegor refuses contact.
  - ii. Yes - Continue.
- c. The DRA/SMR will inform the DD of the individual(s) identified in the allegation and authorize release of information contained in the specific

file to the DD. The DRA/SMR will provide a tasking document to the DD identifying the specific allegation to be addressed including a statement of the potential violation, if known.

- d. The DD will inform the affected Region III employee of the issue(s), providing full details of the allegation in writing (preferably the alleged's written account when possible, but excluding the name of the alleged or other identifying information - particular care should be taken to avoid identification of the alleged), and obtain the employee's version of the events in writing. This will help to prevent distortion of information when it is transmitted between staff members. This should be handled properly and adequate time should be given for the affected employee to respond during work hours.
- e. The DD will advise the affected employee not to contact any involved or suspected licensee directly or pursue resolution of the allegation independently. At this time, the employee may request to be excused from duties involving that particular licensee or site pending resolution of the allegation.
- f. After receiving the employee's written version of the issue, the DD will inform the DRA/SMR regarding:
  - i. any follow-up actions needed to ascertain additional facts and to evaluate the significance of the allegation, (e.g., interview alleged, licensee, licensee employees, and coworkers; and evaluate work patterns, etc.);
  - ii. recommendations, as appropriate, for remedial actions;
  - iii. the plan, to execute any of the above, including a schedule for implementation, and
  - iv. a recommendation, based on the nature of the allegation, on whether the employee should be precluded from participating in any activities related to the licensee and/or work activity identified in the allegation. Any employee request to be excused should also be communicated along with the recommendation. Precluding an employee from activities should only be done when it is necessary to protect the employee or to preclude inadvertent compromise of the ongoing investigation. The DRA/SMR should consult with the RC and the Human Resources Officer on the method for implementing restrictions on employee activities.
- g. After review of the DD's recommendations and plan, the DRA/SMR will then recommend a course of action to the RA who must approve it before it can be implemented.
- h. The DD is responsible for timely implementation of the approved action plan with frequent status reports to the DRA/SMR and the affected employee. The RC will assist the DD as may be needed and appropriate.

As a minimum, verbal status reports will be provided at intervals of 60 days until the matter is resolved.

- i. Is the allegation substantiated?
    - i. NO - If the allegation is found to be without merit, the DD (following discussions with and approval of the DRA/SMR) will inform the employee, in writing, within five (5) calendar days of that decision (proceed to Section E.8.I).
    - ii. YES - If the allegation is found substantiated, the DD will consult with the Human Resources Officer and the RC on what appropriate actions should be taken, and advise the DRA/SMR.
  - j. The DRA/SMR will consult with the RA on any proposed action.
  - k. The employee will be informed when the investigation is completed. If a disciplinary or adverse action is warranted, the employee has the right to be informed of all the facts surrounding the allegation, including the investigation results and the identity of the alleged (if available), at the time personnel action is proposed. Any disciplinary or adverse action to be taken will be processed per established personnel practices.
  - l. The DRA/SMR will notify the alleged in writing in those cases where the alleged requested a response, noting NRC has addressed the concern and stating whether or not the allegation was substantiated. No details of any disciplinary, adverse, or other personnel action should be included. A copy of the correspondence will be placed in the file.
9. If the allegation of improper actions by an NRC employee was not substantiated, the DRA/SMR will evaluate whether a high potential exists that the allegation was made for the purpose of diverting attention from a violation of NRC requirements, and/or for retaliatory purposes, and/or to fetter the subject from performing his/her duties, and/or does a trend regarding unsubstantiated allegations exist?
- a. YES - The DRA/SMR will consult with the RA for a course of action within the NRC's regulatory authority. The NRC employee and divisional management will be informed of conclusions. The conclusions and subsequent actions are to be documented in the file.
  - b. NO - The DRA/SMR has the option of documenting the conclusion in the file; no further action is required.
10. The DRA/SMR will meet with the RA on a monthly basis to discuss the status of active allegation files. For those allegations that remain open after 120 days, the responsible manager will discuss the circumstances surrounding the delay, the status of the investigation, describing the progress achieved thus far; and the estimated time of completion. The RA and DRA/SMR will review this information to determine if the efforts devoted to the investigation and the estimated completion are appropriate.

11. Annually, the DRA/SMR will review the complaints received during the preceding calendar year to identify trends, assess compliance with this procedure, and assess results. As part of this process, the SMR should determine the number of complaints received, the number substantiated, and the number not substantiated. When the review is completed, the RA will implement any appropriate actions on the basis of lessons learned.

Enclosure:  
As Stated

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Enclosure:  
As Stated

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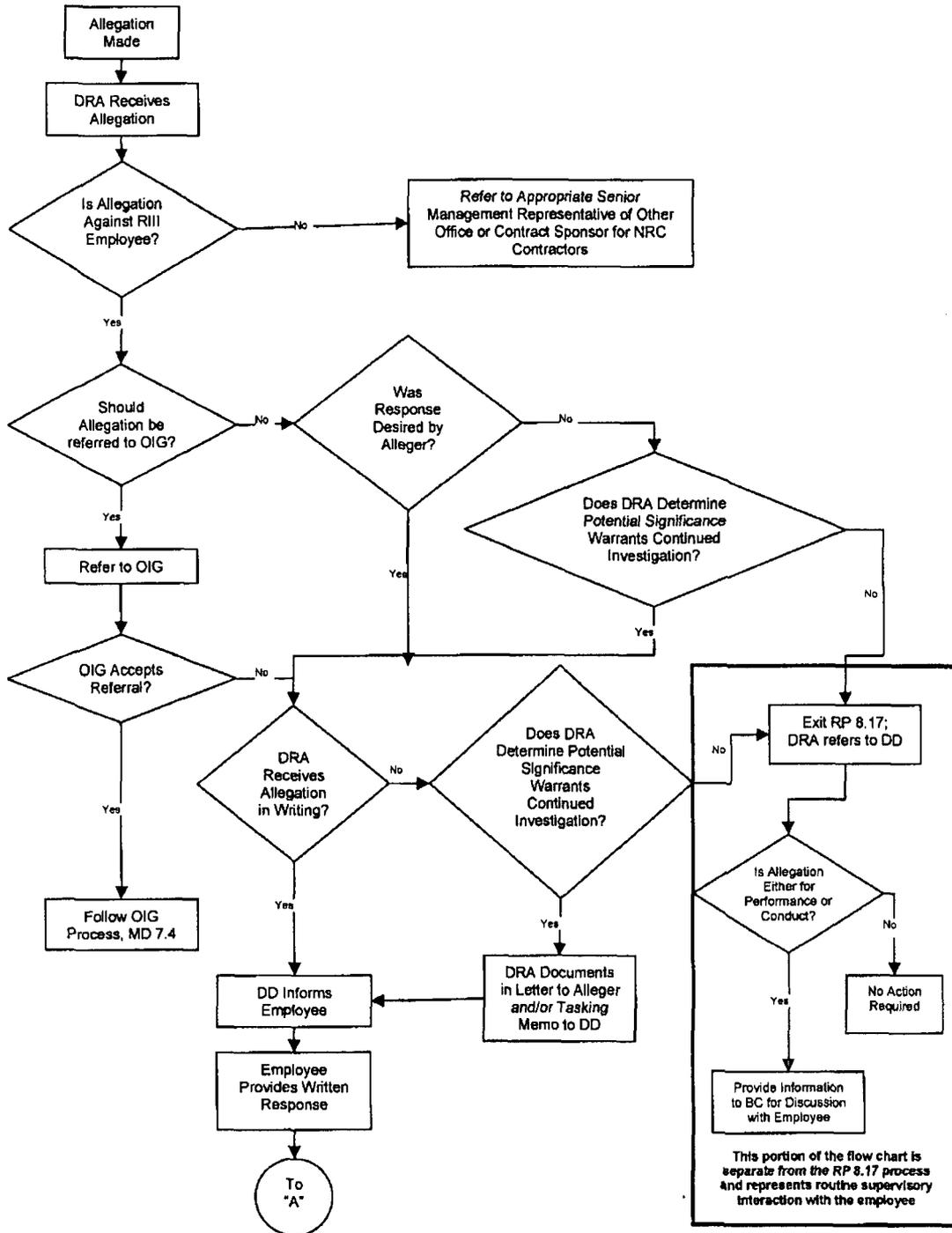
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# FLOW CHART FOR THE HANDLING OF IMPROPER ACTIONS BY NRC STAFF



# FLOW CHART FOR THE HANDLING OF IMPROPER ACTIONS BY NRC STAFF

