

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

MD 8.8	MANAGEMENT OF ALLEGATIONS	DT-10-17
<i>Volume 8:</i>	Licensee Oversight Programs	
<i>Approved By:</i>	Gregory B. Jaczko, Chairman	
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EXECUTIVE SUMMARY		
<p>Directive and Handbook 8.8 describe NRC's policies and procedures for handling allegations associated with NRC-regulated activities. NRC employees are required to adhere to the policy and procedures for handling allegations set forth in this directive and any applicable regional or headquarters office implementing procedures. In case of conflict between this directive and regional or headquarters office procedures, this directive takes precedence.</p>		
<p>This revision incorporates changes desired by NRC management and changes in organizational responsibility. This revision also addresses Commission direction in the following Office of the Secretary (SECY) staff requirements memoranda (SRM):</p>		
<ul style="list-style-type: none">• SECY-02-0166 regarding the handling of discrimination issues;• SECY-04-0020 regarding the sensitivity of security information;• SECY-04-0044 regarding the use of Early Alternative Dispute Resolution (Early ADR) with regard to allegations of discrimination;• SECY-02-0163 regarding staff responsiveness to allegor responses after allegation closure;• SECY-07-0032 regarding correspondence with allegors on security-related concerns;• SECY-04-0191 related to Regulatory Issue Summary (RIS) RIS-05-026, which discusses control of sensitive unclassified non-safeguards information related to nuclear power reactors;• SECY-05-101 related to RIS-05-031, which discusses control of security-related sensitive unclassified non-safeguards information handled by individuals, firms, and entities subject to NRC regulation of the use of source, byproduct, and special nuclear material;• COMSECY-08-009 regarding recommended actions for allegation process modification put forth by a Senior Executive Review Panel formed to evaluate lessons learned from the handling of allegations related to security officer inattentiveness; and		

- SRM-M100119 regarding the outcome of a Commission briefing on the NRC enforcement and allegation programs, dated February 18, 2010.

Also incorporated are changes prescribed in allegation guidance memoranda (AGMs) issued since the last revision of the management directive in February 1999 (specifically AGMs 2000-001, 2003-001, 2004-002, 2004-003, 2004-003 (Revision 1), 2005-001, 2007-001, 2008-001, and 2008-001 (Revision 1)).

The handbook has been streamlined. Specific details related to allegation process implementation and practice, such as correspondence templates or situational examples, have been transferred to a separate Allegation Manual, which will be maintained by the Office of Enforcement (OE) on the NRC internal Web site, <http://www.internal.nrc.gov/OE>.

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I. Allegation Review Board (ARB)

An ARB is a board established by regional administrators and headquarters office directors to determine the safety significance and appropriate NRC followup actions for each allegation.

1. Participants and Functions

- (a) An ARB consists of a chairperson (an action office director, division director, deputy director, or senior manager designee), an OAC, and at least one other responsible individual from the action office. Other personnel may participate as deemed necessary by the ARB chairperson. For matters of suspected wrongdoing or alleged discrimination, an OI representative and an Office of the General Counsel (OGC) representative or regional counsel should be in attendance for consultation. If an OI representative and/or an OGC representative or regional counsel are not available, the ARB shall assign the absent party or parties an action to review decisions made by the ARB to determine if additional ARB discussion is necessary.
- (b) Normally, an initial ARB meeting is to be held within 30 calendar days of allegation receipt by the agency.⁴ However, when an allegation is determined to involve an overriding safety issue, an ARB should be held as soon as possible.

2. ARB Proceedings

- (a) The ARB accomplishes the following:
 - (i) Considers the safety significance of each allegation concern.
 - (ii) Assigns followup actions and estimated completion times for concern evaluation consistent with the safety/risk significance of the allegation concerns, as determined by the ARB. Assigns actions for alleged feedback as prescribed by the allegation process and supplemental alleged feedback, as deemed appropriate.
 - (iii) Assigns responsibility for allegation evaluation, both within and outside the action office, as appropriate. Allegation evaluation is accomplished by technical review, inspection, by requesting feedback from the affected licensee via an RFI or another NRC regional office or headquarters office via a TIA or TAR, by obtaining the results of investigations or evaluations conducted by OI, DOJ, DOL, a State agency, or another Federal agency, or by any combination of these actions. The basis for an ARB decision to send an allegation-related RFI to the licensee shall be documented in the ARB meeting summary.
 - (iv) Provides guidance and direction to assigned action office staff.

⁴ It is recognized that delays in allegation receipt (and in the subsequent scheduling of an initial ARB) may be encountered in some circumstances. As an example, time needed by the Office of the Inspector General (OIG) to evaluate information received by that office that also includes allegation information may delay receipt of the allegation information by the action office. When such a delay is encountered, the initial ARB should be held as soon as possible, particularly when the alleged's identity is known.

- (v) Recommends offering an alleged who has articulated a prima facie showing of potential discrimination for engaging in protected activity the opportunity to resolve his or her concern through Alternate Dispute Resolution (ADR). See Section II.L.3 of this handbook and NUREG/BR-0313, Rev. 1, "Pre-Investigation ADR Program."
- (vi) Facilitates discussions with responsible NSIR or regional security inspection personnel regarding the proper categorization of security-related allegation concerns for the purpose of determining the amount of detail that may be disclosed external to the NRC upon closure of the allegation (e.g., in a closure letter to an alleged). See Section II.L.3(d)(i) of this handbook for guidance regarding the determination of the appropriate security information category.
- (vii) Facilitates discussions of allegations involving alleged wrongdoing and discrimination with OI, including the determination of investigative priorities. Section V, "Initiating, Prioritizing, and Terminating Investigations by the Office of Investigation (OI)," of this handbook provides detail regarding the requirement for staff to notify OI of allegations of potential wrongdoing and to engage OI to coordinate followup actions related to wrongdoing and discrimination issues. The ARB assures that a potential violation describing the technical/legal basis for the alleged wrongdoing is provided to OI prior to the initiation of an investigation. If an alleged wrongdoing concern lacks the specificity needed to determine further regulatory actions, the ARB will first recommend that the staff attempt to gather more information directly from the alleged. The ARB can also request assistance from OI (i.e., an OI Assist to Staff), to support the staff in obtaining additional information regarding the allegation. The ARB may also consider issuing an RFI to the licensee in an attempt to obtain information associated with, but not directly related to, the wrongdoing concern (e.g., procedural, programmatic or personnel-related information). However, typically this action should not be considered before an attempt is made to gather more information directly from the alleged or via inspection activities or via an OI Assist to Staff. The ARB can also request assistance from OI to obtain testimony regarding other matters, including feedback related to the condition of a licensee's safety culture or safety conscious work environment.
- (viii) Facilitates discussion of alleged wrongdoing and discrimination matters with OI at various stages of review, as necessary.
- (ix) Requests legal reviews by representatives of OGC or regional counsel, as appropriate.
- (x) Considers, on very rare occasion, and after discussion with the alleged, whether advertising that inspection and/or investigation efforts are allegation-related would, while still protecting the alleged's identity, significantly improve the staff's evaluation by affording facility employees an opportunity to bring pertinent information to the NRC's attention (since public dissemination of allegation-related information is not a standard course of action). Similarly, on very rare occasion, such as for allegations raised in a highly public manner, concerns impacting many individuals, and significant safety issues, the ARB, in coordination with the AAA, and after discussion with the alleged, may consider whether documenting the results of an allegation assessment

publicly would improve public confidence in the allegation program or otherwise serve the agency's mission. To ensure that such action does not lead the public to assume that all allegation concerns are or will be made public, all such communications shall clearly explain the reason for discussing the allegation publicly. In these instances, the ARB should consider any objections raised by the alleger before proceeding and should not normally authorize such an action over an alleger's objection. If the ARB reaches a decision to publicize that a forthcoming inspection is allegation-related or to publicly document the results of an allegation assessment, the approval of the applicable regional administrator or headquarters office director shall be obtained before taking the action. The staff should monitor the impact of public dissemination of allegation-related information on the allegation program and report all concerns to the AAA.

- (xi) Establishes written minutes documenting issues discussed, meeting participants, safety significance assessments provided, investigation priorities established, and actions assigned by the ARB.
- (b) The ARB should be reconvened if new information is presented that changes the safety significance of an allegation concern, indicates that alteration of an existing course of action should be considered, or if additional discussion of the allegation is otherwise deemed necessary. Additionally, the ARB should be reconvened 6 months after initial receipt, and approximately every 4 months thereafter to review an allegation that is older than 6 months, unless the only open concern(s) relates to matters involving OI or DOL that have no open technical issue or the technical concern awaits completion of action by another Government agency. An allegation older than 6 months that has an ongoing OI investigation but no open technical issues may be discussed during routine OI investigation status/priority discussions with action office management.
- (c) If an OI investigation has been initiated regarding an allegation involving an alleger whose identity is known, and the alleger is interviewed by OI, the transcript or summary of interview with the alleger shall be provided to the action office OAC so that it may be reviewed by responsible regional and headquarters office staff. If new issues are identified or information exists to warrant a change in investigation priority after the transcript or summary of interview has been reviewed by the staff, the ARB should reconvene to determine appropriate action.
- (d) After each ARB, actions assigned and decisions recorded and approved by the ARB shall be documented in the allegation file and entered into the AMS database by the OAC. This course of action provides reasonable assurance that a current record of activity for each allegation is maintained. The OAC will inform the responsible NRC manager of the ARB's final decisions reached and actions assigned. The responsible NRC manager, with the support of the OAC, will ensure that appropriate staff is informed of the ARB decision, particularly those who are assigned specific actions, resident inspectors, and non-resident inspectors, as appropriate.

3. ARB Discussions Involving Allegations of Discrimination

- (a) When an allegation of discrimination is received, the ARB, with OGC or regional counsel support, will determine whether a prima facie showing of potential discrimination has been articulated by the allegor. See definition of prima facie showing of discrimination in Section VI, "Glossary," of this handbook. For a prima facie discrimination case, the ARB will assign an action to offer the allegor an opportunity to use Early Alternative Dispute Resolution (Early ADR) as a means of obtaining resolution of the issue, as an alternative to an OI investigation. See NUREG/BR-0313, Rev.1, "Pre-Investigation ADR Program."
- (b) Exceptions to offering Early ADR to the allegor should be rare and shall be approved by the Director of OE before the initiation of an OI investigation. Although OI will not be requested to initiate an investigation at the initial ARB because of the need to first offer Early ADR to the allegor, the ARB may assign an investigation priority of High, Normal, or Low, using guidance set forth in the Allegation Manual, for later reference, if Early ADR is not used or is unsuccessful. A tentative investigation priority, if assigned at the ARB, should be determined without regard to whether DOL is separately investigating the allegation of discrimination. The ARB minutes must document the rationale for the assigned priority.
- (c) If Early ADR (or any other mediation process) is employed and is successful in establishing a settlement between the allegor and his or her employer or former/prospective employer, an OI investigation will not be initiated and enforcement action will not be taken, as long as the agreement is reviewed by OGC and no restrictive covenants in violation of the applicable employee protection rule exist. If Early ADR is not used by the allegor, or if the allegor is unsuccessful in establishing a settlement with his or her employer or former/prospective employer, or if the allegor or licensee has been unresponsive to the Early ADR offer, OI will be requested to initiate an investigation. The contingency action to open an OI investigation may be decided upon at the initial ARB, or affirmed at a followup ARB meeting after knowledge of the unsuccessful Early ADR result has been established.

J. Allegation Evaluation

1. Acknowledgment Letter

- (a) When the identity of an allegor is known, an acknowledgment letter is to be issued to the allegor, normally within 30 calendar days of the date of receipt of the allegation. The acknowledgment letter may be prepared and signed by the OAC or by any appropriate action office official, as established by the action office, with the concurrence of the OAC. The acknowledgment letter shall include a restatement of the allegor's concerns, along with information relevant to the issues involved (e.g., the Early ADR and DOL processes, identity protection, important contacts, whether concerns are being referred to another entity (like an Agreement State), or whether an RFI from the licensee is being considered). A standardized acknowledgment letter is available in the Allegation Manual. Whenever possible, acknowledgment letters (and all other written

correspondence to an allegor) should be sent using a delivery mechanism that allows for verification of receipt. **Note:** For instances in which an allegor requests electronic correspondence (e-mail), the OAC should request the allegor to verify receipt of the information.

- (b) If discrimination has been alleged, and a prima facie showing of potential discrimination has been articulated, the acknowledgment letter shall offer the allegor the opportunity to use Early ADR, while making clear that Early ADR does not stay the 180-day timeliness requirement for filing a discrimination complaint with DOL. The OAC will inform OE that an offer of Early ADR has been made. **Note:** The allegor should not be offered an opportunity to use Early ADR until after the matter of alleged discrimination has been discussed by the ARB, since the ARB, with OGC or regional counsel support, must conclude that a prima facie showing of potential discrimination has been articulated by the allegor before Early ADR is offered.
- (c) For sensitive, security-related concerns, the acknowledgment letter will reiterate the concern(s) raised but will inform the allegor that NRC, following evaluation of the concerns, may only be able to provide limited information regarding the staff's review, assessment, and findings. The letter shall not include classified, Safeguards, or sensitive security information.

2. Allegor Interview by NRC Technical Staff

In some cases, an interview with the allegor by the NRC technical staff may be warranted. Depending on the nature of the allegation and the time sensitivity of the issue, assistance from OI or other resources may be requested. If an allegor requests an interview with NRC to more clearly explain his or her concerns, or to present information, every effort should be made to accommodate such a request. All contacts with the allegor should be documented and forwarded to the OAC for inclusion in the allegation file. If travel to the action office is necessary, and travel compensation is requested by the allegor, travel costs can be offered with management approval and will be borne by the action office.

3. Evaluation by NRC Technical Staff

- (a) After completing inspection activities or review as assigned by the ARB or as directed by management to address an OSI, technical staff will notify designated responsible staff and the OAC of the completed actions. The allegation status can then be tracked, and subsequent allegation process activities may be initiated (e.g., the development of closure documentation).
- (b) The technical staff will document evaluation of each allegation concern in a report or other appropriate correspondence and submit the documentation to the OAC for inclusion in the allegation file, along with all supporting information. See Sections II.L.1 and II.L.3 of this handbook for guidance regarding staff development of allegation closure of documentation.

4. Allegation Transfers, RFIs, and Referrals

(a) Considering an Allegation Transfer, RFI, or Referral

- (i) Other actions that may be considered by the ARB in support of an allegation evaluation are—
- Transfer of an allegation or specific concerns within an allegation to the appropriate regional or headquarters office;
 - Requesting information from a licensee via an RFI;
 - A request for input from another NRC headquarters office through a TIA or TAR; or
 - A referral to another government agency or other external entity.
 - Normally, ARB approval is obtained before the actions noted in Section II.J.4(a)(i), Bullet 1 through Bullet 4 are taken. However, if in the judgment of the receiving OAC, a concern is clearly under the purview of another regional or headquarters office or is outside NRC's jurisdiction, the OAC can take the following actions without submitting the concern to an ARB:
 - Transfer the allegation or specific concerns within the allegation to the appropriate regional or headquarters office;
 - Refer the concern to the appropriate external agency or entity; or
 - Provide contact information for the external agency or entity to the concerned individual.
- (ii) Matters necessitating referral to law enforcement agencies shall be coordinated with OI.
- (iii) Matters necessitating referral to an Agreement State should be coordinated with the appropriate RSAO.

(b) Informing an Allegor of an Allegation Transfer, RFI, or Referral

When it is determined that information is to be requested from the licensee or an issue is to be referred to another Government agency or external entity, the allegor should receive feedback regarding such action. The notification may be provided via a letter to or a documented conversation with the allegor. If an allegation is transferred within NRC, feedback may be provided to the allegor by either the receiving office or the office to which the allegation is transferred.

(c) Allegation Transfers and Allegation-Related TIAs or TARs

- (i) When a regional or headquarters office receives an allegation and determines that the allegation should be transferred to another regional or headquarters office, the offices must contact each other before the transfer. The office to which the allegation is to be transferred should be in agreement that it is the appropriate action office to evaluate the allegation. If agreement is reached, the allegation is transferred. It is not necessary for the regional or

headquarters office that initially received the allegation to enter the allegation into the AMS or conduct an ARB meeting in this instance.

- (ii) When a regional or headquarters office determines that technical assistance is needed from another headquarters office in reviewing an allegation through a TIA (NRR) or TAR (NMSS, FSME, NRO, NSIR), the other office must agree to the request for technical review. The fact that the request for technical review is related to an allegation must clearly be documented, so that the headquarters office from which technical assistance is being requested is made aware of allegation response timeliness issues.

(d) Requests for Information From the Licensee

(i) Policy Regarding the Issuance of an RFI to the Licensee

- Engaging the licensee in the evaluation of an allegation provides NRC with unique insights into the licensee's handling of employee concerns and provides the licensee with unique insights into its own safety culture.
- A licensee has primary responsibility for ensuring the safe operation of the facility and can promptly address issues through ready access to site personnel, equipment, and documentation related to allegation concerns; therefore, action offices should request information from the licensee in support of allegation closure whenever possible and appropriate, and in all instances involving an OSI.
- As indicated in the sections that follow, the ARB should refrain from issuing an RFI to the licensee in instances that could compromise an allover's identity or an NRC investigation, if it is unlikely that the licensee will be able to perform an independent evaluation, or if a State or Federal agency providing the allegation does not approve of the RFI.
- Other items to be considered by the ARB in deciding whether or not to request information from the licensee include the following: feedback from the allover regarding the option of issuing an RFI to the licensee; allegation history and trends; whether NRC inspection or technical review is preferred in place of or in addition to an RFI; and past licensee performance in responding to allegation-related RFIs.
- Additional guidance in this area is provided in the Allegation Manual, which includes an "Allegation Review Board Worksheet," intended to support discussion at the ARB when an RFI to the licensee is being considered.

(ii) Conditions Inhibiting the Issuance of an RFI to the Licensee

A licensee may be asked to provide information regarding an allegation involving an OSI in any circumstance, as deemed appropriate. However, in other circumstances, an RFI from the licensee should normally not be considered if any of the following conditions apply:

- Information cannot be released in sufficient detail to the licensee without compromising the identity of the allover (unless the allover has no objection to the NRC's requesting information from the licensee and understands the possibility that his or her identity may be compromised).

- The licensee could compromise an NRC investigation or inspection because of knowledge gained by the licensee from the RFI.
 - The allegation is made against senior licensee management or parties who would normally receive the RFI, such that an independent and effective evaluation is unlikely.
 - The basis of the allegation is information received from a Federal or State agency that does not approve of the information being released to the licensee in an RFI.
- (iii) Requesting Information From the Licensee in Response to an Overriding Safety Issue (OSI)
- If an allegation raises an OSI, then NRC staff will normally issue an RFI to the licensee (verbally first, then in writing) regarding the allegation, regardless of any factor in Section II.J.4(d)(ii). In this instance, the consideration of a waiting period for alieger feedback regarding a proposed RFI is waived.
 - **Note:** If the alieger has confidential source status, refer to the alieger's confidentiality agreement for specific guidance regarding the release of information to a licensee about an OSI. In this instance, the alieger is normally given an opportunity to voice any objection regarding the RFI. If sufficient effort is made to evaluate feedback provided by the alieger or to contact the alieger, if no feedback has been provided, and the staff continues to believe that the RFI is warranted, the staff may proceed with the RFI despite the alieger's objection or lack of response.
- (iv) Informing the Alieger About an Allegation-Related RFI to the Licensee
- Before an RFI is provided to a licensee regarding an allegation, all reasonable efforts should be made to notify an alieger whose identity is known of the planned RFI.
 - The fact that an alieger is aware that an RFI may be or will be provided to the licensee is normally confirmed via the acknowledgment letter to the alieger.
 - However, this understanding may be otherwise documented (e.g., during the initial documented contact with the alieger, or in a telephone conversation record).
- (v) RFI Letter to the Licensee
- The RFI letter to the licensee regarding an allegation should reference the allegation number and inform the licensee of the concern(s) in a level of detail that will enable the licensee to evaluate the concern but should not include the identity of the alieger or information that could permit the licensee to identify the alieger.
 - The letter should request that the licensee review the matter and provide a written report of the results of that review.
 - Staff expectations regarding the quality and scope of the licensee's evaluation, the qualifications and independence of review personnel, and

limitations on the distribution of the NRC letter and its enclosure(s) should be conveyed, and the licensee should be requested to describe how these attributes were met in its response to the NRC.

- If interviews are to be conducted or if samples of documentation, systems, structures, or components are to be evaluated, the licensee is expected to provide the basis for determining the number of individuals interviewed, the interview questions used, and the adequacy of sample sizes.
- The licensee is also expected to note any violation of NRC requirements *identified during the course of the review*.
- Letters requesting information from licensees regarding allegations are not issued on the public docket.
- A standardized letter requesting information from the licensee is available in the Allegation Manual.
- Letters requesting information from the licensee regarding allegations that contain security-related information should be treated as SUNSI and should be handled in accordance with established agency guidance. This requirement refers to information requests concerning the following: physical protection, material control and accounting for special nuclear material, security-related orders or confirmatory action letters, insider mitigation, access authorization, or fitness-for-duty issues that are *programmatic or associated with security personnel*.
- When SUNSI handling requirements differ between allegation information and sensitive security-related information, the more restrictive guidance applies.
- The letter requesting information from the licensee shall also request that the licensee contact the NRC to ensure a common understanding of the scope of the allegation and the NRC's expectations for followup and response, and to discuss the licensee's plans for evaluating the concerns that are the subject of the RFI.

(vi) Staff Review of Licensee Response to an RFI

- The technical staff will review the licensee's response to an RFI for adequacy.
- *The staff's review should include some alternate verification of aspects of the information provided. Acceptable verification methods include, but are not limited to, the following:*
 - Verify the existence and applicability of technical references, procedures, corrective action documentation, or calculations noted in the licensee's response.
 - Review recent inspection results in the functional area related to the allegation.
 - Ask followup questions on the material provided by the licensee.
 - Conduct an independent inspection or technical review.

- If the licensee does not conduct a thorough review, it may be necessary for NRC to request the licensee to perform a supplemental review or to independently inspect or investigate the allegation concern(s).
- The staff should inform the licensee of an identified inadequacy in the licensee's response to the RFI.
- NRC staff conclusions with regard to the licensee's response and any independent verification, inspection, or investigative efforts should be documented for inclusion in allegation closure documentation.
- Additional guidance for staff review of the licensee's RFI response and actions to be taken if the RFI response is inadequate, inaccurate, or otherwise unacceptable is provided in the Allegation Manual. The Allegation Manual includes a "Checklist for NRC Staff Review of Licensee Response to an Allegation Request for Information."

(e) Referral of Concerns About Agreement State Licensees

- (i) In accordance with the terms of the agreement between NRC and an Agreement State, NRC must refer concerns received regarding Agreement State licensees to the Agreement State for review and evaluation.
- (ii) If, after the Agreement State program is described to an individual who contacts NRC with concerns about an Agreement State licensee, the concerned individual agrees to contact and be contacted directly by the Agreement State, the concerns are provided to the appropriate RSAO for referral to the Agreement State and are not processed as allegations.
- (iii) If the concerned individual is unwilling to contact or to have his or her identity disclosed to the Agreement State, the allegation program is used to track the evaluation of the concerns raised about the Agreement State licensee.
- (iv) Additional guidance related to the referral of concerns involving Agreement State licensees is provided in the Allegation Manual.

(f) Referral of Industrial Safety Concerns to the Occupational Safety and Health Administration (OSHA)

Concerns submitted to NRC within the purview of OSHA are to be handled in accordance with NRC IMC 1007, "Interfacing Activities Between Regional Offices of NRC and OSHA," and applicable regional or headquarters office procedures.

(g) Referral of Concerns to Government Agencies and Military Organizations

- (i) Concerns under the jurisdiction of Government agencies and the military or other organizations outside NRC's jurisdiction will be referred by designated action office staff to the appropriate organization. [For example, concerns about environmental quality related to other than nuclear material or concerns about the radiological aspects of Superfund sites are to be referred to the Environmental Protection Agency (EPA).]

- (ii) Notification of Federal, State, and local law enforcement agencies and the determination of the amount of information to be provided to them are the responsibility of the appropriate OI field office and the Director of OI.
 - (iii) The concerned individual should be informed that the matter is not within NRC regulatory jurisdiction and that he or she may contact any of these organizations directly.
 - (iv) Identity protection of the concerned individual should be considered in staff referrals of such matters in accordance with the identity protection guidance in this handbook (see Sections II.F and IV.B of this handbook).
- (h) Referral of Offsite Emergency Preparedness Matters Related to NRC Licensed Facilities to the Federal Emergency Management Agency (FEMA)
- (i) Allegations involving offsite emergency preparedness matters related to NRC licensed facilities are to be assigned to NSIR.
 - (ii) NSIR is the responsible action office for such matters and will refer the concern(s) to and request a response from FEMA to support allegation closure.
- (i) Referral to the Office of the Inspector General (OIG)
- (i) Occasionally, a submitted allegation may also include one or more assertions related to the performance of NRC staff or contractors and/or mismanagement of agency programs or operations.
 - (ii) Issues regarding suspected improper conduct by NRC employees or NRC contractors will be brought directly or through appropriate NRC management to the attention of OIG. These issues are not considered allegations and are not to be described in the AMS.
 - (iii) Any records pertinent to matters involving OIG should be excluded from the allegation file or appropriately redacted and forwarded either directly to OIG or to the applicable regional administrator or headquarters office director for referral to OIG, as appropriate. Such matters should not be discussed during an ARB meeting.
5. Providing an Allegation Concern to OI for Initiation of an Investigation
- (a) If wrongdoing is alleged or suspected or if discrimination has been alleged, OI must be informed as investigation by OI is considered by the ARB as a possible course of action for evaluation of such matters. In these instances, the technical staff should normally coordinate with OI before conducting any inspection activity or providing any information to the licensee related to an allegation. See Section V, "Initiating, Prioritizing, and Terminating Investigations by the Office of Investigations (OI)," of this handbook for more guidance related to the initiation of an OI investigation.
 - (b) If an allegation includes an OSI as well as a wrongdoing or discrimination matter, it may be necessary for the technical staff to perform a technical review or release certain information to the licensee before holding an initial ARB, before an OI investigation is initiated, or before the publication of the OI investigation report. In these circumstances, the action office director will inform the Field Office Director or the Director of OI, as appropriate, who will advise the action

office of the anticipated effect of the technical staff response or the information release on the investigation. The action office will determine if the concerns represent an immediate safety issue to justify the risk of compromising the effectiveness of the pending OI investigation, potential escalated enforcement, or DOJ prosecution, in determining whether to perform the technical review or to release the information.

- (c) When an allegor has made a prima facie showing of potential discrimination, and the allegor has either chosen not to participate in Early ADR, has been unresponsive to the offer of Early ADR, or has been unsuccessful in obtaining an acceptable settlement via Early ADR or any other mediation process, the ARB will recommend that OI initiate an investigation.
- (d) If an allegation related to a wrongdoing or alleged discrimination matter is substantiated, OI will inform DOJ of the investigation conclusion so that DOJ may consider the matter for potential criminal prosecution. In general, the fact that a particular matter has been or will be provided to DOJ will not be disclosed to the licensee or the public. If a regional or headquarters office director believes that he or she must disclose that an allegation has been provided or will be provided to DOJ, the concurrence of the Director of OI will be obtained before disclosing the information. If DOJ accepts the issue, generally any ongoing NRC actions at that point in terms of further investigation, enforcement considerations, and allegation closure are held in abeyance pending completion of the DOJ review.

K. Periodic Status Letters to Allegors

In instances of unusual delay in evaluating an allegation, the OAC or other designated staff should ensure that the allegor is provided periodic status letters regarding the NRC's evaluation of concerns. Normally, the allegor should be advised every 180 days or sooner of the status of pending open allegation concerns. For wrongdoing issues, the allegor should be informed that the review is in progress. A standardized status letter is available in the Allegation Manual. If a closure letter is to be issued to the allegor within 2 weeks of the date a status letter is due, it is not necessary to send the status letter.

L. Allegation Closure

1. Staff Action

As assigned, the technical staff shall develop closure documentation for each allegation concern, describing the scope and depth of the review performed and indicating the staff's conclusion as to the validity of the concern. The responsible technical branch chief shall review and concur in the basis for closing each allegation concern, as developed by the technical staff.

2. OAC Action

- (a) The OAC tracks all allegation concerns from receipt to closure. An allegation may not be closed until a determination has been made as to the validity of its concern(s). In some instances, facts put forth by the allegor may be found to be true, even though the safety implications asserted by the allegor are found not to be valid or not to be representative of a safety problem or a violation of