

REPORTING SAFETY CONCERNS TO THE NRC





INTRODUCTION

Anyone should feel free to communicate any safety concern to the U.S. Nuclear Regulatory Commission (NRC). It is the NRC's policy to encourage workers at NRC-regulated facilities to take safety concerns to their own management first, since the facility operator has the primary responsibility for, and is most able to ensure, safe nuclear operations. However, workers and other members of the public can bring safety concerns directly to the NRC at any time. It is the agency's responsibility to respond to those concerns in a timely manner and to protect the identity of the individual to the greatest degree possible.

This brochure discusses how you as a nuclear industry worker or a concerned member of the public can report safety concerns to the NRC, the degree to which the NRC can protect your identity, and the NRC process for handling allegations of discrimination against workers by licensees, their contractors, or subcontractors.

For the purpose of this brochure, the term "licensee" refers to an organization or an individual — or a contractor, subcontractor, or vendor to an organization or an individual — that is an applicant for, or holder of, a license, permit, or certificate issued by the NRC.

Safety concerns may be potential or actual safety issues associated with the NRC's jurisdiction, including, but not limited to, the areas of design, construction, operation, maintenance, radiation protection, safeguards, security, emergency preparedness, harassment, intimidation, retaliation, discrimination, wrongdoing, a work environment that discourages workers from raising safety concerns, and other matters related to NRC-regulated activities.

A WORKER'S ROLE IN NUCLEAR SAFETY

Workers in the nuclear industry have an important role in ensuring safe operations and practices in handling nuclear materials. Protection of public health and safety begins with the NRC's licensing requirements for safe design, construction, and operation of nuclear facilities

and handling of nuclear materials, and continues with inspections to ensure that licensees comply with these requirements and their commitments. However, NRC inspectors can observe only a sampling of the day-to-day activities at nuclear facilities. The NRC considers licensee management to be ultimately responsible for regulatory compliance, and management, in turn, relies on its workers to assist in this effort by identifying and reporting safety concerns. You and your coworkers are the first line of defense for preventing accidents and protecting public health and safety. Your knowledge, experience, and insight as nuclear workers give you the ability to identify safety concerns to your employer and the NRC so that problems may be corrected.

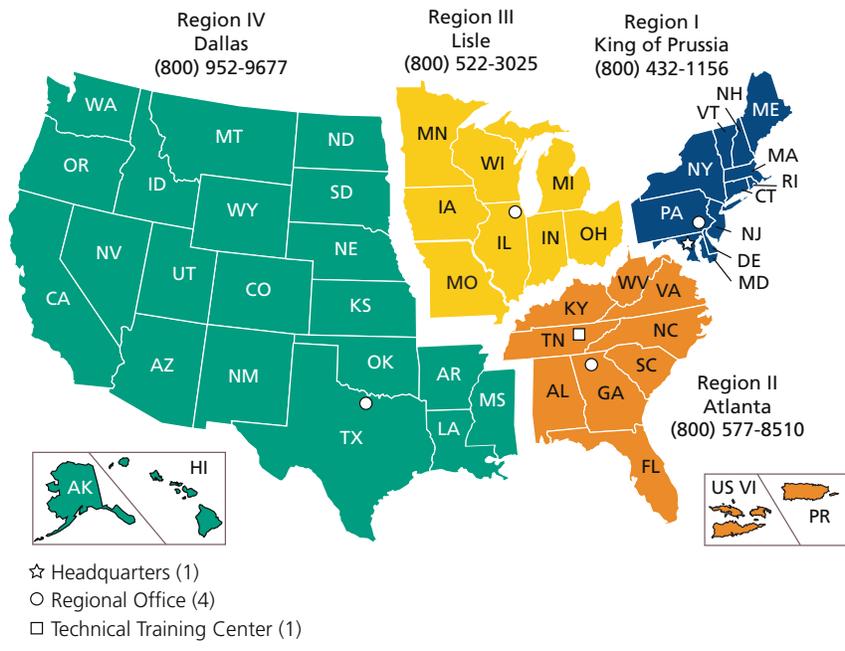
The NRC believes that all workers should feel free to raise concerns to their employers so that issues can be dealt with quickly. At any time, however, employees and members of the public have the option of bringing a safety concern directly to the NRC.

In the past, workers conducting activities associated with NRC-regulated facilities and concerned citizens have raised important safety issues and, as a result, public health and safety have benefitted. This vigilance must continue.

The NRC encourages you to take safety concerns to your employer because your employer—the licensee—has primary responsibility for ensuring the safety of nuclear design, construction, and operations. The licensee is also in the best position to deal with safety issues promptly and effectively. Anyone may raise safety concerns directly to the NRC at any time, but the NRC expects that employees normally will have raised their concerns with their employers before they come to the NRC, if possible.



NRC REGIONS



HOW TO REPORT SAFETY CONCERNS TO THE NRC

You may contact any NRC employee (including a resident inspector), e-mail the NRC at ALLEGATION@nrc.gov, or call the NRC's toll-free Safety Hotline, 1-800-695-7403.

If you call the toll-free number during normal business hours, you will reach the NRC Allegation Coordinator for the NRC regional office serving your area code. If you call after normal business hours, or if your call can't be answered during normal business hours by the regional staff, your call will be directed to the NRC's Headquarters Operations Center, which is staffed 24 hours a day. Calls to the Headquarters Operations Center are recorded. In addition, you may reach an NRC Allegation Coordinator at your regional office by calling the appropriate number listed on the figure above during normal business hours.

If you submit your safety concern in writing or via e-mail to the NRC, we recommend you clearly indicate that you would like your concern to be considered by the NRC Allegation Program. This helps to ensure that your letter or e-mail gets prompt attention and is not placed in the public domain. It also helps protect your identity.

To assist you in reporting a safety concern, the NRC typically asks the following questions:

- *Facility name.*
- *What is your concern? What systems, structures, components, or personnel are affected by your concern? Be as factual and detailed as possible.*
- *On what date did the event occur or the issue arise?*
- *Why do you believe this is a potential safety issue?*
- *Recognizing that every issue does not have the same degree of safety significance, do you believe that this concern merits immediate action to resolve it? If yes, why?*
- *Did you observe the event yourself?*
- *If you did not witness the event, how did you find out about it?*
- *Are there other individuals who can provide additional information related to your concern? If so, please identify those individuals so that we can contact them, if needed.*
- *If you do not want to identify the other individuals, have you asked them to contact NRC directly? If not, why?*
- *Are there any records we should review that may be relevant to your concern?*
- *Your name.*
- *Your home address.*
- *Telephone number at which you would prefer the NRC to contact you.*



If you are a worker in the nuclear industry, the NRC staff will typically also ask the following:

- *Have you discussed this with your supervisor or other licensee official? If so, what was the response?*
- *If you are not satisfied with the licensee's response, explain why.*
- *Have you discussed this with your Employee Concerns Program representative? If so, what was the response?*
- *If you are not satisfied with the Employee Concerns Program's response, explain why.*

Although it will help the NRC respond to your concerns if you can answer these questions, you do not need to have answers to all of them in order to raise a safety concern with the NRC.

ALLEGATION PROCESS

The NRC strives to review all allegations objectively to ensure the outcome is fair, sound, and timely. All allegations brought to the NRC are assigned to an employee designated as an Allegation Coordinator. The coordinator's job is to—

- Promptly contact you to confirm the details of the allegation and to confirm that the NRC has correctly interpreted and understood the information you provided. Normally, the staff sends an acknowledgment letter within 30 days of receipt of your allegation.
- Arrange for an evaluation of your concern by a group of NRC employees and managers designated as an Allegation Review Board (ARB). The ARB will review the concern and make a preliminary determination of its safety significance. The ARB will also determine whether the NRC staff alone will evaluate the allegation, or whether feedback from other agencies or organizations is needed to enable the NRC to complete its assessment of the allegation. The ARB will also determine whether the licensee needs to be contacted. It is the NRC's policy to request from the licensee a written evaluation of concerns in all cases involving an overriding safety concern, and for other concerns whenever possible and appropriate, after considering certain conditions, including any objections you may have.

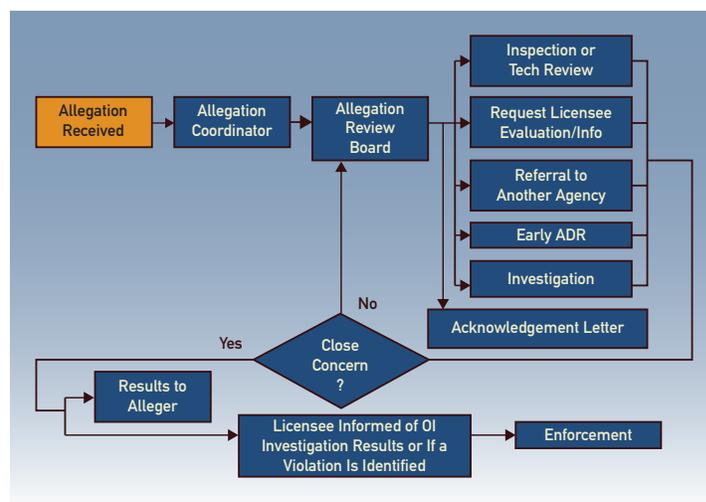
- Document NRC actions taken to address the allegation.
- Advise you periodically about the status of the allegation.
- Provide a final report to you upon completion of the allegation evaluation.

The NRC will complete the review of any technical concerns you may bring forward and send a final report to you. If it takes longer than 6 months for the NRC to complete an evaluation of a concern, you will receive a letter explaining the status of the NRC's review.

CONCERNS OUTSIDE THE NRC'S JURISDICTION

Concerns outside the NRC's jurisdiction are not addressed within the NRC's allegation process. The NRC will, as necessary, forward such concerns to the appropriate Federal or State agency. You will be notified of the action taken. Examples of these concerns include—

- utility rates
- pay or performance issues not related to raising nuclear safety concerns or other protected activity
- nonradiological industrial or occupational safety
- disposal of nonnuclear waste





IDENTITY PROTECTION

The NRC recognizes that some people will only come forward if they believe their identities will be protected from disclosure. If you are concerned about protecting your identity, NRC representatives will make arrangements to call you at your home or meet with you at a discreet location.

The NRC will make all reasonable efforts not to disclose an individual's identity outside the agency. Only NRC staff who have a need to know will be provided an individual's identity. This would happen, for example, when an inspector or investigator is assigned to interview the individual. Documents that contain the individual's identity are stored in a secured area and are not placed in NRC public document rooms or entered into the NRC's Agencywide Documents Access and Management System (ADAMS).

Even if you do not object to being identified as the source of an allegation, the NRC will not reveal your identity unless it is necessary to evaluate the allegation or otherwise serves the mission of the agency or the public's interest. However, the NRC may be required to reveal your identity outside the agency under the following rare circumstances:

- (1) Disclosure is necessary to protect public health and safety because of an overriding safety issue identified in your allegation.
- (2) Disclosure is necessary to satisfy a request from Congress or from a State or Federal agency.
- (3) Disclosure is required to respond to a court order or Commission order or when necessary in adjudicatory proceedings.
- (4) The NRC needs to pursue a wrongdoing investigation or support a hearing on an NRC enforcement matter.
- (5) You take an action that is inconsistent with protecting your identity, such as notifying the news media or in some way publicly identifying yourself with the allegation.

The NRC will make every effort to withhold your identity in response to Freedom of Information Act requests, unless you have been identified as having brought the concern to the NRC under one of the circumstances outlined above.

Furthermore, if the NRC were to investigate a claim that you were a victim of discrimination because you raised a safety concern, investigating the allegation without identifying you would be extremely difficult. Therefore, when investigating a claim of discrimination, the NRC will disclose your name.

CONFIDENTIALITY AGREEMENTS

If, after the identity protection afforded by the NRC allegation process is explained to you, you remain concerned that your identity may be disclosed, the NRC can provide formal confidentiality. However, the NRC requires you to explicitly request confidentiality, and it is not granted routinely. Confidentiality affords protection of information that directly or otherwise could identify you by name and the fact that you provided the information to the NRC. After an authorized NRC official grants confidentiality, you and the NRC would sign a written agreement. The agreement would explain the conditions under which the NRC will protect your identity. As with the standard identity protection within the allegation process, your identity will be divulged to other NRC employees only on a need-to-know basis.

LIMITATIONS ON CONFIDENTIALITY

Even if confidentiality is granted, the NRC cannot protect your identity under all circumstances. The specific situations requiring identity disclosure are very similar to those described earlier under the standard identity protection within the allegation process. However, disclosures involving overriding safety issues and requests from State or Federal agencies necessitate that the NRC staff seeks your prior approval. If you cannot be reached or do not agree to disclosure, the responsible NRC staff will contact the Commission for resolution.

On rare occasions, the NRC may revoke confidentiality. This may occur if you take an action so inconsistent with the agreement that it overrides the purpose of granting confidentiality, such as discussing the matter with the news media and being publicly identified by the media. Only the Commission itself, the NRC's Executive Director for Operations, or the Director of the Office of Investigations can make a decision to revoke confidentiality.



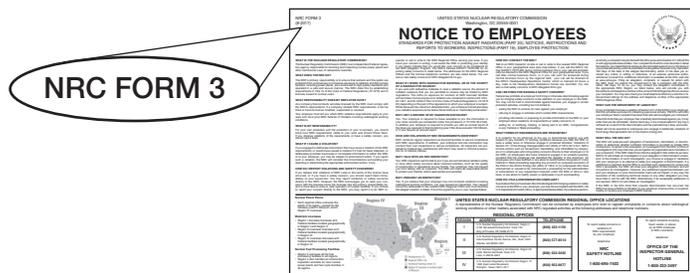
LICENSEE RESPONSIBILITY

The NRC expects licensees to establish and maintain a safety-conscious work environment that encourages employees to raise safety concerns to their management, free of any fear of reprisal for doing so. Such a work environment is critical to a licensee's ability to safely carry out its responsibilities. Licensees must post or otherwise make available to workers a copy of NRC regulations, licenses, and operating procedures that apply to their work. All NRC-issued Notices of Violations involving radiological working conditions and proposed imposition of civil penalties and orders also must be posted.

Further, licensees are required by law to post NRC Form 3, "Notice to Employees," that describes protected activities and explains how allegations of licensee violations can be reported directly to the NRC. Protected activities include, but are not limited to—

- conferring privately with NRC inspectors about any past or present condition that a worker believes contributed to or caused a violation of NRC regulations
- refusing to engage in activities that violate NRC requirements
- requesting the NRC to enforce its rules against the worker's employer
- testifying, helping with or taking part in an NRC, congressional, or any Federal or State proceeding
- posting of radiation caution signs and labels
- recording and reporting worker radiation exposure

NRC Form 3 must be posted at prominent locations at the workplace to permit workers to view it easily. A copy of NRC Form 3 is reproduced at the end of this brochure for your reference.



HANDLING DISCRIMINATION AGAINST WORKERS

You should know that *it is illegal for licensees to take discriminatory action—such as firing, reduction of pay, poor performance appraisals, or reassignment to a lower position or job—against a worker for raising safety concerns to management or the NRC.*

You should be aware that while the NRC will investigate some discrimination complaints, the U.S. Department of Labor (DOL) is the agency from which nuclear workers must seek personal remedies when they believe they have been discriminated against for reporting a concern. You may also file a complaint with appropriate State agencies, if applicable. The NRC's authority is limited to taking an enforcement action against the licensee, such as a fine, an order modifying an NRC license, or, in criminal cases, referral to the U.S. Department of Justice for prosecution.

If the NRC determines that your discrimination concern warrants evaluation under the NRC's regulations, the NRC Office of Investigations (OI) may investigate your concern. During an investigation, OI gathers testimonial and documentary evidence related to the discrimination concern. Since performing such an investigation without identifying you can be extremely difficult, your name will be disclosed to a limited number of people who work for the employer. If, on the basis of the investigation, the NRC substantiates your discrimination concern, the NRC will consider enforcement action against the employer, as appropriate.

As an alternative to an OI investigation, once the NRC determines that an evaluation of your discrimination claim is warranted, you will be offered an opportunity to participate in the NRC's preinvestigative alternative dispute resolution (ADR) program, which offers mediation in the handling of discrimination complaints. Mediation is a voluntary process in which two parties, you and your employer/former employer, use an unbiased, neutral individual, or mediator, in an attempt to resolve and settle your discrimination complaint. If an agreement is reached, the NRC will close the discrimination complaint upon settlement and will not perform an investigation. The ADR process applies only to your discrimination complaint—any technical safety issues you raised will be addressed separately.



If ADR does not result in a settlement, the NRC (OI) may initiate an investigation into your discrimination complaint. As mentioned above, the NRC's ADR program is voluntary, and any participant may end the mediation at any time.

The NRC encourages employers to develop similar dispute resolution processes for use in conjunction with their own employee concerns programs. If a worker and employer resolve and settle a discrimination concern using such a process, the employer may voluntarily report the settlement to the NRC. If the NRC is notified of an internal settlement before an NRC OI investigation is initiated, the NRC will close the discrimination complaint and will not perform an investigation.

Workers who raise safety concerns serve a vital role in the protection of public health and safety. Retaliation against those who do so is unlawful and will not be tolerated by the NRC.

Although participation in the NRC's ADR program may lead to negotiation of your discrimination complaint, you should still consider filing a discrimination complaint with the DOL. In order to protect your right to file a discrimination claim with DOL, you must file a written complaint with DOL within 180 days of the date of the alleged discriminatory action or the date you received any notice, in writing or otherwise, of an adverse personnel action, whichever occurs first.

DOL may choose to wait for the ADR mediation to finish in case you reach a settlement with your employer, but timely filing of a discrimination complaint with DOL ensures that DOL will review your claim in the event ADR is unsuccessful.

Once entered, the entire DOL complaint process may take several years to complete. It begins with an attempt by the local DOL office to negotiate a settlement between you and your employer. If this effort is unsuccessful, the local DOL office will investigate to determine whether discrimination occurred and provide its conclusions to the parties involved. Usually, this phase is completed within about 90 days.

At the request of the worker or employer, a DOL administrative law judge can review the conclusions of the local DOL office. The judge will hold a hearing and issue a recommended decision that will be reviewed by the DOL Administrative Review Board. The Administrative Review Board's decision becomes the Secretary of Labor's final decision. The Secretary's decision may be appealed to the U.S. Court of Appeals.

Depending on the outcome in each step of the DOL process, you will have to await decisions concerning reinstatement to your job, payment of back wages, and compensatory damages, including repayment of legal fees. To fully preserve your rights to a personal remedy, you will need to participate in each step of the process.

Written complaints can be sent to the Occupational Safety and Health Administration at any of the DOL regional offices. To obtain the address of the correct regional office, you can either look it up in your local telephone directory or contact an NRC Allegation Coordinator, who can also answer questions about how to file a complaint with DOL.

If you file a discrimination complaint with DOL and later find that you need information from the NRC about issues associated with your protected activity or NRC requirements, you may contact the NRC by calling 1-800-368-5642 and asking for the Agency Allegation Advisor or calling 301-415-8529 directly.

SAFETY CONSCIOUS WORK ENVIRONMENT

The NRC recognizes that concerns about discrimination can discourage workers from raising safety concerns. Other behaviors, such as defensive or ineffective responses to concerns raised, could also impact the free flow of information at a facility. Therefore, in 1996, the NRC issued a policy statement to convey the Commission's expectation that licensees establish and maintain a safety conscious work environment in which the following occurs:

- Employees are encouraged and are free to raise safety concerns, both to their management and to the NRC, without fear of retaliation.
- Concerns are promptly reviewed, given the proper priority based on their potential safety significance, and appropriately resolved.



- Timely feedback is provided to the individual raising the concern or others as necessary.

Concerns about the safety conscious work environment are of interest to the NRC. Some individuals refer to this type of concern as a “chilling effect.” To assist the NRC staff evaluating such a concern, you may be asked the following questions:

- Are there any specific safety concerns you or others have not raised? If so, will you tell us about them now?
- What specifically happened, and when, that impacted your or others’ willingness to raise safety concerns?
- What types of concerns are you hesitant to raise and why? What is their impact on safety?
- To whom are you hesitant to raise concerns and why? What reporting avenues are impacted?
- Which organizations and how many individuals are impacted by the chilling effect?
- Who is contributing to the chilled work environment and what is his or her relationship to those who are chilled?
- Do you believe management is aware of the chilled work environment? If yes, have actions been taken to address the situation and do you feel the actions have been effective?

SUMMARY

The NRC believes that all workers should feel free to raise concerns to their employers so that issues can be dealt with quickly. At any time, however, employees and members of the public have the option of bringing a safety concern directly to the NRC.

Workers who raise safety concerns serve a vital role in the protection of public health and safety. Retaliation against those who do so is unlawful and will not be tolerated by the NRC.

DEFINITIONS

Agency Allegation Advisor—A designated NRC staff member who is responsible for monitoring the NRC’s allegation program and providing advice and guidance to NRC management and staff on handling allegations.

Allegation—A declaration, statement, or assertion of impropriety or inadequacy associated with the NRC-regulated activities, the validity of which has not been established.

Allegation Review Board (ARB)—A board established by regional administrators or headquarters office directors to determine the safety significance and appropriate NRC follow up for each allegation. The ARB consists of a chairperson (a senior NRC manager), an Allegation Coordinator, and other individuals within an NRC office or region.

Allegation Coordinator—A designated staff member who serves as the point of contact for processing allegations in an NRC region or headquarters office.

Alleger—An individual who, or organization that, submits an allegation to the NRC.

Confidentiality—Identity protection for an alleger who has been granted confidential source status.

Investigation—An activity conducted by the NRC’s OI to independently gather and examine testimonial, documentary, and physical evidence, and relevant facts, to assist the staff, the NRC’s Office of Enforcement, or the U.S. Department of Justice in evaluating allegations of wrongdoing and/or discrimination.

Wrongdoing—A willful violation of regulatory requirements through deliberate action or a violation resulting from careless disregard of regulatory requirements.

ADDITIONAL RESOURCES

- **NRC Alternative Dispute Resolution Program brochure NUREG/BR-0313** at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0313/>
- **Occupational Safety and Health Administration Web site** at <http://www.osha.gov>
- **NRC Report a Safety Concern Web site** at <http://www.nrc.gov/about-nrc/regulatory/allegations/safety-concern.html>



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