

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

**MD 7.4 REPORTING SUSPECTED WRONGDOING DT-17-148
AND PROCESSING OIG REFERRALS**

Volume 7 Legal and Ethical Guidelines

Approved By: Allison M. Macfarlane
 Chairman

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Issuing Office: Office of the Inspector General

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EXECUTIVE SUMMARY

Directive and Handbook 7.4 are being revised to update the responsibilities and authorities contained within the Inspector General Act of 1978, as amended. The Office of the Inspector General (OIG) was established as a statutory entity on April 15, 1989, creating an independent and objective unit within NRC. The revised management directive provides updated guidance on reporting suspected wrongdoing to OIG and describes management responsibilities in handling OIG investigative referrals.

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I. POLICY

It is the responsibility of the Inspector General (IG), U.S. Nuclear Regulatory Commission, to inform NRC employees of their duty to report to the Office of the Inspector General (OIG) suspected wrongdoing, including incidences of fraud, waste, abuse, employee or management misconduct, mismanagement of agency programs, or danger to public health and safety in NRC's programs and operations as required by the Inspector General Act of 1978, as amended.

II. OBJECTIVES

- Provide direction and guidance for reporting suspected wrongdoing to OIG.
- Describe NRC management responsibilities in responding to OIG investigative referrals.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Chairman

1. Provides the OIG access to NRC documents and information or assistance requested.
2. Ensures employee cooperation with OIG.
3. Receives reports of particularly serious or flagrant problems, abuses, or deficiencies.
4. Ensures that all allegations of misconduct and wrongdoing by individuals in the Chairman's office are promptly reported to OIG.
5. Responds to management referrals received from OIG that require action.

B. Commission

1. Ensures that all allegations of misconduct and wrongdoing by individuals in the Commissioner's office are promptly reported to OIG.

2. Responds to management referrals received from OIG that require Commission action with respect to the affected Commission office.

C. Executive Director for Operations (EDO)

1. Ensures that all allegations of misconduct and wrongdoing by individuals under the Executive Director for Operations' (EDO's) purview are promptly reported to OIG.
2. Responds to management investigative referrals received from OIG that require EDO action.

D. Inspector General (IG)

1. Conducts, supervises, and coordinates audits and investigations in response to reports of suspected incidences of fraud, waste, abuse, or wrongdoing relating to NRC programs and operations.
2. Investigates allegations of violations of law, rules, or regulations; mismanagement; or substantial and specific danger to public health and safety.
3. Reviews existing and proposed legislation, regulations, directives, and policy issues for their impact on the prevention and detection of fraud and abuse in, or the economy and efficiency of the administration of, NRC programs and operations.
4. Keeps the Chairman and members of Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies; recommends corrective action; and monitors NRC progress in implementing these actions.
5. Refers evidence of violations of Federal criminal law resulting from OIG investigations to the Attorney General of the United States.

E. Deputy Inspector General

1. Oversees the conduct and supervision of audit and investigative activity in response to reports of suspected incidences of wrongdoing, including fraud, waste, abuse, misconduct, or mismanagement relating to agency programs and operations.
2. Oversees the overall management of all administrative and planning activities necessary to support the programmatic mission of OIG.

F. Assistant Inspector General for Investigations

1. Supervises the performance of investigative activities and inquiries in response to reports of suspected incidences of wrongdoing, including fraud, waste, abuse; violations of law; or misconduct or mismanagement relating to NRC programs and operations.

2. Investigates allegations of violations of law, rules, regulations, and/or the adequacy of NRC regulatory oversight of events that may impact public health and safety.
3. Directs the exercise of law enforcement authority in the investigation of suspected violations of law or misconduct.
4. Directs and monitors agency response to matters referred for management action.
5. Serves as initial denial authority for OIG Freedom of Information Act requests.

G. Assistant Inspector General for Audits

1. Supervises the performance of auditing activities relating to NRC programs and operations that evaluate the effectiveness and efficiency by which managerial responsibilities are carried out, determines whether programs achieve intended results, and attests to the reasonableness of NRC's financial statements.
2. Advises and assists the IG on all audits and evaluations conducted by OIG, including referral of suspected misconduct or wrongdoing for investigation.

H. General Counsel to the Inspector General

1. Provides independent legal counsel and representation for the IG and OIG.
2. Advises and assists the IG on all legal issues and serves as legal advisor to the OIG staff on all matters related to allegations, referrals, and investigations.

I. Office Directors and Regional Administrators (ODs and RAs)

1. Ensure that all allegations of misconduct and wrongdoing are promptly referred to OIG.
2. Respond to management and investigative referrals received from OIG that require OD/RA action.

J. Employees

1. Promptly report allegations of suspected wrongdoing to OIG and/or through their supervisor.
2. Cooperate in OIG investigations.

IV. APPLICABILITY

This directive and handbook apply to all NRC employees.

V. HANDBOOK

Procedures for reporting suspected wrongdoing and processing OIG referrals are contained in Handbook 7.4.

VI. REFERENCES

Code of Federal Regulations

"Office of the Inspector General" (10 CFR Part 1.12).

"Public Records" (10 CFR Part 9).

"Program Fraud Civil Remedies" (10 CFR Part 13).

"Standards of Ethical Conduct for Employees of the Executive Branch" (5 CFR Part 2635).

Nuclear Regulatory Commission Documents

Management Directive 3.4, "Release of Information to the Public."

Management Directive 10.99, "Discipline, Adverse Actions, and Separations."

"The IG at the NRC," NUREG/BR-0146, Rev. 3, August 2003.

United States Code

Federal Activities Inventory Reform Act of 1998 (Fair Act) (Pub. L. 105-270).

Freedom of Information Act (5 U.S.C. 552).

Inspector General Act of 1978, as amended (5 U.S.C. App. 3).

Investigation of Crimes Involving Government Officers and Employees
(28 U.S.C. § 535).

Privacy Act (5 U.S.C. 552a).

Program Fraud Civil Remedies Act (31 U.S.C. 3801-12 et seq.).

U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)

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I. PROCEDURES FOR REPORTING SUSPECTED WRONGDOING AND PROCESSING OFFICE OF THE INSPECTOR GENERAL (OIG) REFERRALS

A. Reporting Suspected Wrongdoing

1. Employees are required to report to the Office of the Inspector General (OIG) all suspected violations of law, rules, or regulations; mismanagement or substantial and specific danger to health and safety; incidences of fraud, waste, and abuse; diversion of U.S. Nuclear Regulatory Commission assets by NRC employees or contractors; and other wrongdoing covered under the Inspector General Act. Contractors and other individuals employed in NRC programs and/or present in NRC spaces are encouraged to report these matters.
2. Employees should report any indications of fraud, waste, abuse of authority, mismanagement, or other wrongdoing directly to OIG or through their supervisor.
3. Agency managers and supervisors are responsible for ensuring that allegations of wrongdoing they receive are promptly reported to OIG.

Reports of wrongdoing may be made by—

- (a) contacting the OIG directly by telephone on 301-415-5930
- (b) calling the OIG-HOTLINE on 1-800-233-3497 or TDD 1-800-270-2787
- (c) submitting an online form, which is accessed by—

 Logging onto www.nrc.gov
 Clicking on Inspector General
 Click on Submit an Online Form

- (d) or by writing to—

 U.S. Nuclear Regulatory Commission
 Office of the Inspector General
 Mail Stop O-5 E13
 11555 Rockville Pike
 Rockville, MD 20852

4. WHAT TO REPORT — The information provided to OIG should be sufficient to allow evaluation of the complaint to determine if action by the NRC/OIG is warranted or if referral should be made to another agency, to NRC management, or to some other office for their information and action.

(a) What should be reported? Indications of the following:

- Management/supervisory retaliation
- Contract and procurement irregularities
- Conflicts of interest
- Theft and misuse of property
- Travel fraud
- Misconduct
- Time and attendance abuse
- Misuse of Government credit card
- Abuse of authority
- Program mismanagement
- Misuse of information technology resources
- Substantial and specific danger to the public health and safety
- Computer crimes
- Other violations of Federal laws and regulations

(b) The following information should be provided:

- A brief, accurate statement of facts believed to provide evidence of wrongdoing
- Names, addresses, and office locations of pertinent individuals and organizations
- Dates and time when the suspected wrongdoing took place or is expected to occur
- How you became aware of the information
- Memoranda, contracts, invoices, or other related documents

- Names, addresses, office locations, and telephone numbers of others (including licensees) who may have witnessed the event or have information about the suspected wrongdoing

B. Allegation Analysis

1. When an allegation is received, OIG conducts an analysis to determine whether further action is warranted and, if so, what type of action is needed.
2. OIG considers the following factors in evaluating a complaint for investigation:
 - (a) Plausibility that a violation of a statute or regulation under OIG jurisdiction has been committed
 - (b) The presence of indicators that the matter may significantly affect public health and safety
 - (c) Indications of retaliation or reprisal
 - (d) The effect of the alleged illegal or improper activity on NRC programs
 - (e) Whether the matter is of interest to senior NRC managers, one or more congressional committees, the nuclear industry, or a public interest group
 - (f) The level of the position of individuals against whom the allegations are made (an allegation of wrongdoing by high-ranking agency officials is of heightened concern)
 - (g) The deterrent effect knowledge of the investigation may have on others who may consider committing similar illegal or improper acts

C. Investigative Responsibility and Authority

1. Once an OIG investigation has begun, the responsibility for investigating suspected wrongdoing belongs to OIG, not to the reporting employee or his or her supervisors. This provision is not intended to preclude normal supervisory actions, nor appropriate responses to health, safety, or national security matters. If an individual employee becomes aware of an OIG investigation, he or she should not engage in any independent inquiry or investigation once the matter has been reported to OIG. Employees should also avoid discussing the matter with the person or persons suspected of wrongdoing. They should, however, report any follow-up information to OIG.
2. The investigative process includes gathering relevant information through the conduct of interviews, review of documents, and electronic/computer data. Federal employees are required to cooperate in the investigative process. False statements

made in the course of an OIG investigation are subject to criminal and administrative penalties.

3. OIG is authorized by statute to have access to all records, reports, audits, reviews, documents, papers, recommendations, and other agency material that relate to NRC programs and operations.
4. OIG has subpoena authority to obtain documents from non-Federal sources.

D. Referral Options

1. If OIG determines an investigation is necessary, all relevant information is gathered and an investigative report is prepared.
2. If an OIG investigation is not initiated but the complaint does require additional action, the matter is referred to NRC management. Referral to NRC management occurs when an allegation reflects issues or facts indicating a performance matter or that warrant a technical review. When a matter is referred to management, OIG continues to track the action taken. It is expected that the cognizant management official will examine the facts of the matter and take appropriate action. This action is reported to OIG. The discovery of additional facts evidencing a more serious allegation, a matter of employee misconduct, or inadequate regulatory oversight must be reported to OIG immediately.
3. Referral to another law enforcement agency occurs when the matter is outside the NRC OIG's jurisdiction. In addition, allegations not susceptible to or warranting immediate action may be retained for use as the basis for programmatic inquiries or audits.

II. DISTRIBUTION OF INVESTIGATIVE REPORTS

A. Investigative Document Distribution and Dissemination Within Government

1. Reports of Investigation are sensitive documents releasable under the authority of the IG. Their distribution is restricted by the Privacy Act (PA) (5 U.S.C. 552).
2. When there is evidence of violations of Federal criminal law, the report may be presented to the Department of Justice (DOJ) for use in prosecution in Federal Court. Violations of other statutes are coordinated with State and local officials, prosecutors, or both. If the investigation substantiates misconduct, the report will be sent to NRC managers for action. NRC managers are required to advise OIG of completed action taken or provide the status of proposed administrative action within 120 days of receipt of the OIG report of investigation.

3. When an investigation is completed, a copy of the investigative report and associated exhibits are forwarded, as appropriate, to the Executive Director for Operations (EDO), the Chief Financial Officer (CFO), and/or the Chairman. These officials provide copies of the report to those whose official duties present a “need to know” in connection with a particular case.
4. As appropriate, copies of reports may be provided to or discussed with congressional committees.
5. Managers who receive an OIG investigative report for consideration of management action must restrict its distribution to those NRC officials and employees deemed necessary to properly determine whether and what type of administrative, contract, or security action is appropriate.

B. Investigative Document Dissemination Under the Freedom of Information Act and the Privacy Act

1. Investigative documents are subject to release in accordance with the Freedom of Information Act (FOIA) and the PA. Requests for these documents are to be directed to the agency FOIA staff and are processed pursuant to Management Directive 3.4, “Release of Information to the Public.” In accordance with 10 CFR Part 9, “Public Records,” OIG exercises independent authority to release or withhold documents. The Assistant Inspector General for Investigations serves as the initial denial authority and the IG is the final appeal authority for documents under OIG cognizance.
2. OIG documents released under the FOIA are not placed in the Agencywide Documents Access and Management System (ADAMS).

III. OIG REPORTING

A. Criminal

1. The Inspector General Act requires that the IG report evidence of violations of Federal criminal law to DOJ for consideration of prosecution. Matters within the jurisdiction of State and local authorities may also be referred for consideration of prosecution in those venues.
2. The U.S. Office of Government Ethics requires the reporting of criminal referrals and convictions for violations of ethics statutes.

B. Civil

Under the Program Fraud Civil Remedies Act (31 U.S.C. 3801-12 et seq.), OIG refers fraud cases to the agency for civil recovery. The act provides for penalties of up to \$5,000 for each false claim or statement and double damages for each claim.

IV. EMPLOYEE PROTECTION

The IG shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the IG determines such disclosure is unavoidable during the course of the investigation. Furthermore, no action may be taken against an employee for having made a complaint or for disclosing information to OIG. However, disciplinary action may be imposed for knowingly making a false complaint or providing false information.