

facilities and safe use of nuclear materials.⁵ Employees have a variety of responsibilities to their employers to raise concerns to them, based on employment contracts, employers' rules, and NRC requirements. In fact, many employees in the nuclear industry have been specifically hired to fulfill NRC requirements that licensees identify deficiencies, violations and safety issues. Examples of these include many employees who conduct surveillance, quality assurance, radiation protection, and security activities. In addition to individuals who specifically perform functions to meet monitoring requirements, the Commission believes that all employees have a responsibility to raise concerns to licensees if they identify safety issues⁶ so that licensees can address them before an event with safety consequences occurs.

The Commission emphasizes that employees who raise concerns serve an important role in addressing potential safety issues. Retaliation against employees who, in good faith, attempt to carry out this responsibility cannot and will not be tolerated.

The Commission's expectation that employees will raise safety concerns to licensees does not mean that employees may not come to the NRC. The Commission encourages employees, when they are not satisfied that licensees have been responsive to their concerns, or for that matter at any time when they believe that the Commission should be aware of their concerns, to come to the NRC. But the Commission does expect that employees normally will have raised the issue with the licensee either prior to or contemporaneously with coming to the NRC. This is because the licensee, and not the NRC, is usually in the best position and has the detailed knowledge of the specific operations and the resources to deal promptly and effectively with concerns raised by employees. The NRC can only serve as a supplementary avenue for raising concerns, not the primary conduit. This is another reason why the Commission expects licensees to establish an

environment in which employees feel free to raise concerns to the licensees themselves.

Employees should be aware that except in limited fact-specific instances, advising the Commission of safety information would not absolve an employee of his or her duty also to inform the employer of matters that could bear on public, including worker, health and safety. Examples of those exceptions would include situations in which the employee had a reasonable expectation that he or she may be subject to retaliation for raising an issue to his or her employer even if an alternative internal process is used, situations where the licensee has threatened adverse action for identifying noncompliances or other safety concerns, and circumstances in which the employee believes that supervisors and management may have engaged in wrongdoing and that raising the matter internally could result in a cover-up or destruction of evidence.

The Commission cautions licensees that although licensees should expect employees to normally raise issues to them, disciplining employees for not doing so when they have come directly to the NRC will be closely scrutinized by the Commission. The Commission will give high priority to investigating allegations of such discrimination. Whether it was reasonable for an employee not to have raised a safety concern to the licensee depends on all the relevant facts and circumstances in the particular situation. If disciplinary action is found to have occurred solely because the person came to the NRC, enforcement action will be taken against the licensee.

Summary

In summary, the Commission expects that NRC licensees will establish quality-conscious environments in which employees of licensees and licensee contractors are free, and feel free, to raise concerns to their management and to the NRC without fear of retaliation.

(a) The Commission expects that each of its licensees will:

(1) With the exception of relatively small licensees with few employees, have a defined alternate method for raising and addressing concerns internally beyond the normal process of identifying concerns to supervisors;

(2) Inform its employees and supervisors, including contractor and subcontractor employees and supervisors, of (a) the importance of raising concerns and (b) how to raise concerns through normal processes,

alternative internal processes, and directly to the NRC; and

(3) Address all potential safety and compliance concerns. For reactor licensees this means their programs should not focus solely on concerns related to "safety-related" activities.

(b) In situations where licensees use contractors to assist them in carrying out licensed activities, the Commission expects that:

(1) Each contractor or subcontractor will be made aware of the applicable regulations which prohibit discrimination;

(2) Each contractor or subcontractor will be made aware of its responsibility to foster an environment in which employees are free to raise concerns, and of the need to provide training for supervisors and employees; and

(3) The licensee will have the ability to oversee the contractor's or subcontractor's efforts to encourage employees to raise concerns, prevent discrimination, and resolve allegations of discrimination.

Licensees must ensure that employment actions against employees who have raised concerns have a well-founded, non-discriminatory basis. When allegations of discrimination arise in licensee, contractor, or subcontractor organizations, the Commission expects that senior licensee management will get directly involved, review the particular facts, consider or reconsider the action, and, where warranted, remedy the matter.

Employees also have a role in contributing to a quality-conscious environment. The Commission expects that each employee will raise concerns to the employer when the employee identifies a safety or compliance issue. Although employees are free to come to the NRC at any time, the Commission expects that employees will normally raise concerns with the involved licensee because the licensee has the primary responsibility for safety and is normally in the best position to promptly and effectively address the matter. Except in limited circumstances, the NRC should be viewed as a safety valve and not as a substitute forum for raising safety concerns.

This policy statement has been issued to highlight licensees' existing obligation to maintain an environment in which employees are free to raise concerns without retaliation. However, if a licensee has not met this obligation, as evidenced by retaliation against an individual for engaging in a protected activity, whether the activity involves providing information to the licensee or the NRC, appropriate enforcement action can and will be taken against the

⁵ The expectation that employees provide safety and compliance concerns to licensees is not applicable to concerns of possible wrongdoing by NRC employees or NRC contractors. Such concerns are subject to investigation by the NRC Office of Inspector General. Concerns related to fraud, waste or abuse in NRC operations or NRC programs including retaliation against a person for raising such issues should be reported directly to the NRC Office of Inspector General. The Inspector General's toll free hotline is 800-233-3497.

⁶ Except in the area of radiological working conditions, the Commission has not codified this obligation. Licensees are required by 10 CFR 19.12 to train certain employees in their responsibility to raise issues related to radiation safety.