

Statement of Policy

Under the Atomic Energy Act of 1954, as amended, the NRC has the authority to investigate allegations that employees of licensees or their contractors have been discriminated against for raising concerns and to take enforcement action if discrimination is substantiated. The Commission has promulgated regulations to prohibit discrimination (See, e.g., 10 CFR 30.7 and 50.7). Under the Energy Reorganization Act of 1974, as amended, the Department of Labor (DOL) also has the authority to investigate complaints of discrimination and to provide a personal remedy to the employee when discrimination is found to have occurred. However, the processes for providing personal remedies and taking enforcement action can be time-consuming. To the extent that retaliation can be avoided altogether or addressed and resolved quickly when it occurs, the interests of all parties are well served.

The Commission believes that the most effective improvements to the environment for raising concerns will come from within a licensee's organization (or the organization of the licensee's contractor), as communicated and demonstrated by licensee and contractor management. Management should recognize the value of effective processes for problem identification and resolution, understand the negative effect produced by the perception that employee concerns are unwelcome, and appreciate the importance of ensuring that multiple channels exist for raising concerns. As the Commission noted in its 1989 Policy Statement on the Conduct of Nuclear Power Plant Operations (January 24, 1989; 54 FR 3424), management must provide the leadership that nurtures and perpetuates the safety environment.

The Commission is issuing this statement to state clearly its expectation that licensees will ensure the freedom for all employees to raise concerns both to their management and to the NRC without fear of retaliation. In developing this policy statement, the Commission considered the need for:

- (1) Licensees and their contractors to establish work environments, with effective processes for problem identification and resolution, where employees feel free to raise concerns, both to their management and to the NRC, without fear of retaliation;
- (2) Improving contractors' awareness of their responsibilities in this area;
- (3) Senior management of licensees and contractors to become directly involved in investigating and addressing

or resolving cases of alleged discrimination; and

- (4) Employees in the regulated industry to recognize their responsibility to raise safety concerns to licensees and their right to raise concerns to the NRC.

Effective Processes for Problem Identification and Resolution

Licensees bear the primary responsibility for the safe use of nuclear materials in their various licensed activities. Effective problem identification and resolution processes are essential to ensuring safety. Thus, it is important that each licensee establish a quality-conscious environment where employees are encouraged to raise concerns and where such concerns are promptly reviewed, given the proper priority based on their potential safety significance, and appropriately resolved with timely feedback to employees.

A quality-conscious environment is reinforced by a management attitude that promotes employee confidence in raising and resolving concerns. Other attributes of a work place with this type of an environment include well-developed systems or approaches for prioritizing problems and directing resources accordingly; effective communications among various departments or elements of the licensee's organization for openly sharing information and analyzing the root causes of identified problems; and employees and managers with an open and questioning attitude, a focus on safety, and a positive orientation toward admitting and correcting personnel errors.

Initial and periodic training (including contractor training) for both employees and supervisors is also an important factor in achieving a work environment in which employees feel free to raise concerns. In addition to communicating management expectations, training can clarify options for problem identification. This would include use of licensee's internal processes as well as providing concerns directly to the NRC. Training of supervisors may also minimize the potential that efforts to reduce operating and maintenance costs may cause supervisors to be less receptive to employee concerns if identification and resolution of concerns involve significant costs or schedule delays.

Incentive programs may provide a highly visible method for demonstrating management's commitment to safety, by rewarding ideas not based solely on their cost savings but also on their contribution to safety. Credible self-assessments of the environment for

raising concerns can contribute to program effectiveness by evaluating the adequacy and timeliness of problem resolution. Self assessments can also be used to determine whether employees believe their concerns have been adequately addressed and whether employees feel free to raise concerns. When problems are identified through self-assessment, prompt corrective action should be taken.

A basic measure of licensee success in this area is the degree to which concerns are identified and resolved through established internal procedures. The use of normal processes (e.g., raising issues to the employee supervisors or utilizing quality assurance programs) for problem identification and resolution is both more efficient and less likely to result in conflict. While licensees should encourage employees to resolve problems using normal processes, safety considerations dictate that no method of raising concerns should be discouraged. Thus, each licensee should develop a dual focus: achieving and maintaining an environment where employees feel free to raise their concerns directly to their supervisors and to licensee management; and ensuring that alternate means of raising and addressing concerns are accessible, credible, and effective.

It is important to recognize that the fact that some employees do not desire to use the normal line management processes does not mean that they do not have legitimate concerns. Even in a generally good environment, some employees may not be comfortable in raising concerns through the normal channels. From a safety perspective, these concerns need to be captured by the licensee's resolution processes. Therefore, it is important that licensees provide methods for raising concerns that can serve as internal "escape valves" or "safety nets."³ Examples of these methods include:

- (1) An "open-door" policy that allows the employee to bring the concern to a higher-level manager;
 - (2) A policy that permits employees to raise concerns to the licensee's quality assurance group; or
 - (3) Some form of an employee concerns program.
- NUREG-1499 may provide some helpful insights on various employee-concern programs. The success of a licensee "safety-net" program is influenced by

³ In developing these programs, it is important for reactor licensees to be able to capture all concerns, not just concerns related to "safety related" activities covered by 10 CFR Part 50, Appendix B. For example, concerns relating to environmental, safeguards, and radiation protection issues should also be captured.