

December 29, 2008

MEMORANDUM TO: Samuel J. Collins, Regional Administrator, Region I
Luis A. Reyes, Regional Administrator, Region II
James L. Caldwell, Regional Administrator, Region III
Elmo E. Collins, Regional Administrator, Region IV
Eric J. Leeds, Director, Office of Nuclear Reactor Regulation
Michael R. Johnson, Director, Office of New Reactors
Roy P. Zimmerman, Director, Office of Nuclear Security and
Incident Response
Michael F. Weber, Director, Office of Nuclear Material Safety
and Safeguards
Charles L. Miller, Director, Office of Federal and State Materials
and Environmental Management Programs
Guy P. Caputo, Director, Office of Investigations

THRU: Cynthia A. Carpenter, Director /RA/
Office of Enforcement

FROM: Lisamarie L. Jarriel, Agency Allegation Advisor /RA/
Office of Enforcement

SUBJECT: ALLEGATION GUIDANCE MEMORANDUM 2008-001, "INTERIM
GUIDANCE IN RESPONSE TO LESSONS LEARNED FROM THE
ALLEGATION ASSESSMENT OF INATTENTIVE SECURITY
OFFICERS AT PEACH BOTTOM ATOMIC POWER STATION"

The purpose of this allegation guidance memorandum (AGM) is to provide interim guidance to the Nuclear Regulatory Commission (NRC) staff responsible for handling allegations. This guidance was developed in response to lessons learned regarding the handling of allegations in March 2007 and September 2007 of inattentive security officers at the Peach Bottom Atomic Power Station (Peach Bottom). Lessons learned reviews included an assessment by the Agency Allegation Advisor, a Region I review team analysis, and a Senior Executive Review Panel (SERP) evaluation of the events related to the Peach Bottom allegations. The Commission approved recommendations for enhancing the allegation program resulting from these reviews, with additional direction, to discuss pending changes with internal and external stakeholders. The Office of the Inspector General (OIG) also conducted an Event Inquiry and issued a report identifying findings in four areas. A reconvened SERP determined that actions identified in the previous SERP report, and approved by the Commission, addressed the four areas of findings in the OIG report. The SERP also recommended that certain additional actions be taken by the staff to clarify current practices in the policy documents guiding the staff's implementation of the Allegation Program. In the interim, until such time as agency policy is updated, discussed with external stakeholders, and has received Commission approval, the interim guidance provided herein should be implemented.

Background

In March 2007, the NRC received an allegation from a former contract security manager that security officers at Peach Bottom were sleeping on duty due to fatigue caused by excessive overtime. In addition to identifying one specific location where the officers were allegedly sleeping, the allegor indicated that other, non-specified locations were also being used. The allegor requested that the NRC not contact him about the concerns and the staff, respecting this request, and following the then existing common practice to honor an allegor request for no further contact, the NRC did not contact him further to inquire about other potential locations or to discuss other aspects of the concerns and the agency's proposed handling of them.

As an option for allegation evaluation, it is the agency's policy to request from the licensee a written evaluation of allegation concerns as often as possible, after considering certain conditions. When conditions do not inhibit the NRC from requesting information from the licensee with regard to an allegation, this has been considered an effective approach to allegation evaluation because the licensees have primary responsibility for ensuring safe operation of the facility and can promptly address issues through ready access to site personnel, equipment, and documentation related to the concerns. Historically, the agency has made such requests for approximately 40% of the allegations received. Employing the agency's current policy, the staff requested that the licensee conduct an evaluation of the specific concerns raised in the March 2007 Peach Bottom allegation and provide a written response to the NRC for review, including documentation of any corrective actions taken in response to the evaluation. The licensee did not substantiate the concerns. The NRC reviewed the licensee's submitted response, gathered some additional information, and similarly was unable to substantiate the allegor's specific concerns.

Notwithstanding that assessment, in September 2007, the NRC received a second allegation from a reporter, which included video evidence of a number of inattentive security officers at Peach Bottom in the ready room (a room where security officers not on patrol are allowed to read, study, or eat among other things, but must remain ready to respond). The agency promptly dispatched an Augmented Inspection Team, and initiated a range of inspection and investigative activities to determine the extent of the condition and required corrective actions. The NRC assessed the safety significance of this concern and issued a "white" finding with cross-cutting aspects in both the Safety Conscious Work Environment and Human Performance areas. The agency's response to this event continues. Since the September 2007 video evidence demonstrated that the March 2007 allegation, although less specific, was valid, the agency has subsequently conducted several internal reviews in an effort to determine what could have been done better in response to the March 2007 allegation and what clarifications and/or modifications could be made to the NRC allegation process to provide the staff with better opportunities to discover such inappropriate activity earlier.

Interim Guidance

Provided below is new or enhanced guidance for the NRC staff responsible for handling allegations in the following program areas: Allegation Terminology; Contacting Allegors; Licensee-Initiated Alternative Dispute Resolution Processes; Allegation Requests for Information; NRC Assessment of Licensee Responses to Requests for Information; Resident and Non-Resident Inspector Knowledge of Allegation Activity; Allegation Closure Documentation Involving a Licensee Response to a Request for Information; and Allegor Responses after Closure. For the purposes of this AGM, the term "licensee" refers to any

licensee, certificate holder, license or certificate applicant, or vendor that may be the subject of an allegation.

Much of the information provided below was developed in coordination with and/or as a result of discussions among NRC allegation staff and supervision, from headquarters' and the regional offices during periodic team teleconferences and during internal workshops held on February 26-27, 2008, and September 17-18, 2008, to explore and develop enhancements to the Allegation Program and process guidance. Aspects of the guidance below will also be discussed with external stakeholders at a future public workshop.

Allegation Terminology

Management Directive (MD) 8.8, "Management of Allegations," currently uses the term "referral" to describe any instance when an allegation concern (or a concern that is ultimately determined not to be an allegation) is assigned to an entity other than the NRC receiving office for initial review (e.g., to another NRC office, a State or Local government, another Federal agency, a law enforcement agency, or the licensee). Used in this general context, the term "referral" is misleading and could be misinterpreted by individuals and external stakeholders not familiar with the NRC allegation process to mean that an allegation concern is being turned over in its entirety to another entity with no additional NRC oversight or review of the licensee's evaluation, and closure of the concern. To address this potential misconception, more definitive terms have been developed to describe how allegations are handled within the agency and to more clearly reflect that NRC maintains responsibility and authority to assess and respond to every allegation concern.

Two new terms, Transfer and Request for Information, are described below. The term Referral will continue to be used, but in a more specific context as described below.

Transfer – Involves an NRC internal exchange from the NRC receiving office to the responsible NRC program or regional office with responsibility for addressing the allegation, i.e., the Action Office.

Request for Information (RFI) – Used when the Action Office responsible for the allegation seeks additional information from the licensee regarding the validity of the allegation to enable a complete NRC assessment in response to the allegation.

Referral – Used when: (1) the NRC receiving office retains the administrative responsibility for the allegation-related issue-in-question (i.e., is also the action office) but must obtain feedback from another agency or entity in order to respond to the issue (e.g., Federal Emergency Management Agency (for offsite emergency preparedness issues)), (2) the concern is not under NRC purview (i.e., not an allegation) and is forwarded by the NRC receiving office to the appropriate external agency or entity (e.g., Occupational Safety and Health Administration (for industrial safety issues), Environmental Protection Agency (for issues related to Superfund sites), Department of Energy (for radioactive materials issues under DOE purview), or (3) the issue-in-question is an NRC staff performance concern to be forwarded by the NRC receiving office to the NRC OIG. Therefore, an issue is "referred" either (a) to another agency or entity, in part, to obtain allegation-related feedback or in its entirety because the issue is not an allegation, or (b) to NRC OIG as an NRC staff performance matter.

Sample Allegation Acknowledgment and Status Letters are provided in Enclosures 1 and 2 incorporating the new terminology.

It is noted that processes are already established within the NRC addressing the circumstance when one program or regional office requests input from another program or regional office (specifically, Task Interface Agreements for requested input from the Office of Nuclear Reactor Regulation, or Technical Assistance Requests for requested input from other program offices). These processes are also used when an allegation Action Office requires input from another program office to support allegation evaluation.

Contacting Allegers

Engaging the allexer throughout the allegation review process is beneficial because it helps ensure that the NRC and the allexer share a mutual understanding of the concerns raised, that pertinent information is obtained from the allexer, that the allexer is informed of the NRC plans for evaluating the concerns, including the use of an RFI, if appropriate, and that NRC's conclusions regarding the concerns are provided to the allexer after the NRC has completed its evaluation, affording an opportunity for allexer assessment and feedback. Although an allexer's involvement is preferred, the agency recognizes that some individuals prefer to remain anonymous, or, even when their identity is known, not to be contacted by NRC staff after initially raising a concern. This circumstance occurred when NRC received the March 2007 Peach Bottom allegation (i.e., the allexer provided identifying and contact information but requested no further contact with the NRC). It has been a common NRC practice to honor such a request for no further contact. Historically, this has been viewed as a matter of common courtesy so as not to alienate the allexer from raising concerns to the NRC in the future, and includes a presumption that no further information related to the allegation is needed in order to evaluate the concerns raised. After reassessing this past practice, it has been determined that a reasonable effort should be made to communicate with an allexer who has requested no further contact as NRC begins its allegation evaluation efforts to ensure that all pertinent allegation-related information is obtained from the allexer and to discuss the value of continued involvement in the allegation process. In this regard, the following guidance should be followed:

If an allexer requests no further contact with the NRC, the responsible branch chief, the Office Allegation Coordinator (OAC) or other appropriate individual will, as directed by an Allegation Review Board (ARB), contact or attempt to contact the allexer: (1) to obtain additional information related to the allegation, if needed; (2) to inform the allexer of NRC's plan for evaluating the concern using an RFI, if appropriate, and; (3) to encourage the allexer's continued involvement in the allegation process (i.e., through receipt and review of an acknowledgement letter providing NRC's understanding of the concerns raised and plans to address them, and ultimately through receipt of a closure letter affording the allexer an opportunity to assess and provide feedback regarding the NRC's conclusions). Such communication should be made verbally, if possible. If, as an outcome of this additional contact, the allexer reiterates his or her desire not to participate in the allegation process, the agency should honor the request and not provide the allexer with an acknowledgment and/or closure letter, but only consider contacting the allexer during the course of the evaluation if additional information is needed to evaluate the concerns raised. If the NRC employee receiving the allegation explains the advantages of continued involvement in the allegation process during the initial discussion with the allexer and the allexer persists in requesting no further contact with the NRC, generally an additional attempt to contact the allexer will not be made, provided that no additional information is needed. All such

communications with the alleged shall be documented in the allegation file. If an alleged cannot be contacted or if a decision was reached not to contact the alleged, then upon closure of the allegation, the basis for not contacting the alleged will be included in the closure memorandum.

Licensee-Initiated Alternative Dispute Resolution Processes

The NRC has encouraged employers to develop dispute resolution processes internal to their company, similar to the agency's Early Alternative Dispute Resolution (Early ADR) process described in NUREG BR-0313, for use in conjunction with their own employee concerns programs (see Federal Register Notice 69 FR 50219 dated August 13, 2004, NRC Enforcement Policy; Alternate Dispute Resolution). Although NRC policy recognizes licensee employment of such processes, the agency's correspondence with allegeders has not specifically addressed their use. Therefore, new standard language has been added to Enclosure 1, "Sample Allegation Acknowledgement Letter," to reflect the following:

If you utilize your employer's dispute resolution program to settle a discrimination concern, the employer may voluntarily report the settlement to the NRC. If NRC is notified of an internal settlement before an investigation by the NRC Office of Investigations (OI) is initiated, the NRC will request a copy of such a settlement agreement (when completed, if negotiations are ongoing) from the employer and review it to determine if it contains any restrictive agreements in violation of NRC employee protection regulations. If no such restrictive agreements exist, NRC will typically close the discrimination complaint and will not perform an OI investigation similar to what is done subsequent to an agreement reached by way of NRC-sponsored ADR.

Allegation Request for Information Worksheet

Management Directive 8.8 requires a number of issues to be considered when deciding whether an allegation concern will be inspected by the NRC technical staff, investigated by NRC OI, evaluated by a licensee in follow up to an allegation-related RFI, or whether a combination of these actions will be employed. To assist the staff in making this determination and describing the basis for the action assigned by the ARB, a worksheet has been developed delineating current guidance, as well as additional direction involving the consideration of trends in allegations, NRC inspection and investigation history, and other activities. In some cases, it may be appropriate to conduct an NRC inspection even though an RFI was sent to the licensee.

Enclosure 3, "Allegation Review Board Worksheet - Considering a Request for Information to the Licensee," is supplied as guidance for use by the responsible Branch Chief or designee, if desired, to support discussion at the ARB when an RFI is being considered. The specific ARB decision regarding an RFI and the basis for that decision shall be documented in the ARB meeting summary. If the RFI worksheet is used to document the ARB decision regarding an RFI, the completed worksheet shall be maintained in the allegation file.

Allegation Requests for Information Letters to the Licensee

It is NRC's policy to request from the licensee a written evaluation of allegation concerns (via an RFI) in as many cases as possible, because licensees have primary responsibility for ensuring safe operation of the facility and can promptly address issues through ready access to site personnel, equipment, and documentation related to the concerns. To enable the licensee to

conduct a comprehensive evaluation, the letter transmitting the RFI to the licensee should include as much specific information as possible about the allegation concern. However, care must be taken with the amount of detail provided to the licensee so as not to compromise the identity of the alleged.

MD 8.8 requires that the NRC convey in RFI letters to licensees the staff's expectation that the licensee's evaluation of allegation concerns be thorough, objective, and of sufficient scope and depth to resolve the concerns. The letter requesting information from the licensee is expected to inform the licensee of the concern(s) in a level of detail that will enable the licensee to effectively evaluate the concern, while continuing to protect the alleged's identity. In this regard, the information provided to the licensee regarding the Peach Bottom allegation of inattentiveness was limited in nature to protect the alleged's identity. However, in so doing, the agency did not provide certain information that may have assisted the licensee in its evaluation. Furthermore, the NRC determined that the licensee's response to the agency did not clearly indicate how the agency's expectations with regard to thoroughness and objectivity were met. In particular, it was not clear that the interviews of the workforce by the licensee were of sufficient scope or appropriately representative of those who may have had knowledge of the inattentiveness. Therefore, the following guidance is provided to address these areas:

If it is not possible to include sufficient detail in the RFI letter without jeopardizing the alleged's identity, the allegation should either be inspected by the NRC in its entirety or additional NRC inspection activity should be conducted to supplement information to be obtained from the licensee in its response to the RFI. This guidance has been incorporated into Enclosure 3, "Allegation Review Board Worksheet - Considering a Request for Information to the Licensee."

The staff should include the following in the letter transmitting the RFI to the licensee:

- A request that the licensee specifically address (a) NRC expectations with regard to evaluator qualifications and independence, (b) the sufficiency of the evaluation's scope and depth; (c) the basis for determining the number and cross-section of individuals interviewed and the interview questions used, if interviews are to be conducted during the course of the evaluation; and (d) the adequacy of sample sizes, if samples of documentation, systems, structures, or components are to be evaluated during the course of the evaluation. The RFI should also request additional specific information needed by the NRC to address the concern thoroughly, but in a manner that does not limit the licensee's evaluation;
- A request that the licensee contact the responsible NRC branch chief or other appropriate staff to ensure a common understanding of the scope of the allegation and the staff's expectations for follow-up and response. The licensee shall be requested to contact the NRC prior to, or as early into, the licensee's conduct of the evaluation as possible. During this discussion, the staff should be mindful not to dictate specific requirements that may restrict or limit the licensee's response. Rather, this discussion is intended to ensure that the actions proposed by the licensee to evaluate the allegation concern(s) appear likely to result in a product that meets the NRC's stated expectations and thoroughly addresses the concern(s) raised. If upon completion of this or subsequent discussions, it is determined that the licensee's plan of action is unlikely to be successful, the responsible Branch Chief will reconvene the ARB to consider a

follow-up telephone call with senior licensee management, or NRC inspection activity. A record of the conversation with the licensee shall be included in the allegation file, and;

- A request that the licensee's response identify any violations of NRC requirements.

Enclosure 4, "Sample Allegation Request for Information (RFI) Letter to the Licensee," incorporates the above guidance.

Checklist for NRC Assessment of Licensee Response to RFIs

The NRC has historically conducted separate reviews and reached independent conclusions regarding allegation concerns for which information has been requested from a licensee via an RFI. However, guidance to NRC staff for performing this review has not been structured and the amount of detail provided by the staff in allegation closure documentation regarding its review and conclusions related to allegation concerns involving an RFI response has been varied. Lessons-learned reviews of the March 2007 Peach Bottom allegation identified that a more structured review process is needed to support the staff's determination as to whether a licensee's response to an RFI is sufficiently comprehensive and whether any additional NRC follow-up action is warranted.

A checklist (Enclosure 5) has been developed as a reference guide for NRC staff to use, if desired, in performing its review of the licensee's response to an RFI. The checklist outlines areas that may be assessed by the staff and includes a number of questions to assist the staff reviewer in assessing the adequacy of the RFI response. Attributes that should be assessed include:

- The independence and qualifications of the licensee's evaluators;
- The evaluation's scope and depth (e.g., concerns addressed, questions answered, interviews conducted, sample selection, extent of condition/root cause/generic implications considered (as appropriate), potential SCWE impact);
- The licensee's corrective actions to prevent, alleviate, or correct deficiencies identified;
- The licensee's recognition of apparent violations, and;
- The involvement of potential wrongdoing.

In addition to the above, the NRC should evaluate the adequacy of the licensee's RFI response by independently verifying aspects of the information provided by the licensee. Examples of how this can be accomplished are also provided in the checklist (Enclosure 5) and include:

- Follow-up questions on the material provided;
- Independent inspection or technical review of certain aspects of the issue;
- Review of the results of recently conducted NRC inspections in the functional area related to the allegation concerns;

- Verifying the existence and applicability of technical references, procedures, corrective action program documentation, or calculations noted in the licensee's response.

The reviewer will inform the responsible branch chief and the OAC of the results of the evaluation. If the licensee's RFI response is determined to be acceptable and, combined with any additional relevant information, provides the basis for closure, responsible NRC staff will proceed with the development of closure documentation for the allegation concern. If it is determined that the licensee's response is inadequate, inaccurate, or otherwise unacceptable, the staff may still proceed to closure if other information is available that supports closure of the concern. If, however, additional information is needed and it is determined that a substantively different evaluation plan than previously approved by the ARB is needed to obtain necessary information, the ARB should be reconvened to discuss the proposed alternate action. Such alternate action may include:

- Preparing a supplemental RFI to the licensee, highlighting areas that were not adequately responded to in the licensee's initial response;
- Conducting an independent NRC inspection;
- Opening a separate allegation to initiate an OI investigation for an issue involving potential wrongdoing;
- Initiating an OI assist to obtain additional or clarifying information.

If there are clarifications regarding the licensee's response to an RFI that can be addressed by means of a brief conversation with the licensee, an ARB would not normally need to be reconvened.

If, after discussion with the responsible Branch Chief and the OAC, it becomes apparent that there has been a recent history of inadequate RFI responses from a particular site or facility, the ARB should consider an appropriate means of notifying the licensee about the inadequacies in their RFI responses (e.g., a telephone call to or meeting with licensee senior management) and obtaining information from the licensee regarding planned corrective actions to address the history of inadequate RFI responses. Actions taken to address the inadequacy of a licensee's response to an RFI should be documented in the allegation file and the Allegation Management System (AMS). An action entry entitled "Inadequate Licensee RFI Response" has been added to the AMS database for this purpose. The AMS description field for this action should indicate the inadequacy and specific additional actions taken by the staff. This will allow for a more informative data search regarding the adequacy of licensees' responses to prior RFIs when evaluating the appropriateness of using an RFI on future allegations.

Resident and Non-Resident Inspector Knowledge of Allegation Activity

Resident inspectors communicate current plant conditions daily with responsible NRC management and promptly share significant safety and security issues that require immediate action or attention. When an immediate safety or security concern is raised through an allegation, the resident inspector is informed of the concern by responsible NRC management. Resident inspectors, as well as other inspectors, are also periodically assigned by the ARB to evaluate specific allegation concerns as part of their inspection activity. However, to limit the

dissemination of information that could identify an alleged, the status of all open allegations has not historically been made known to all inspection staff.

Assessment of the March 2007 Peach Bottom allegation identified that improved information sharing with both resident and non-resident inspectors regarding allegations may have afforded additional opportunities to identify inattentiveness among security officers. Therefore, the following guidance is provided to increase the amount of allegation-related information that is shared with resident and other, non-resident inspectors while still maintaining appropriate protection of allegation-related information and alleged identities.

The responsible NRC regional manager will, in coordination with the OACs ensure that the resident inspectors are informed of all open allegations related to their assigned facility and any ARB assigned actions related to the concerns, so that they maintain an awareness of asserted concerns as they accomplish daily inspection activities. Similarly, the responsible manager will ensure that other inspectors performing an inspection at the facility are informed of open allegations and past allegation trends pertaining to areas to be inspected. To support this effort, the responsible regional manager may request, for example, an AMS report from the OACs of all allegations opened in the previous 12 months that are associated with a particular facility and/or area of inspection.

Allegation Closure Documentation Involving a Licensee Response to an RFI

When the staff has completed its evaluation and determined that sufficient information is available to determine the validity of the allegation concerns, the assigned technical branch will develop an allegation closure document for ultimate incorporation into a closure letter to the alleged or closure memorandum to the allegation file, as appropriate.

The closure documentation should summarize pertinent information from the licensee's response, and specifically describe the staff's evaluation and conclusions regarding the allegation concerns based on all pertinent information, including the licensee's RFI response. In particular, the closure documentation should clearly:

- Identify each concern as stated in the acknowledgment letter or as modified in more recent allegation process correspondence;
- Describe the licensee's evaluation and response, and;
- Document the NRC's evaluation of the licensee's response and overall conclusions regarding the validity of the concern.

The description of NRC's evaluation of the licensee's response should articulate any NRC staff independent verification, inspection, or investigative efforts conducted to validate aspects of the licensee's response. Specific details should be included as necessary to convey the extent of the NRC evaluation. In addition, the description should describe the safety/security and regulatory significance of a substantiated concern.

Enclosures 6, 7, and 8 provide sample closure documents for use when (1) the allegation involves other than security-related concerns, (2) the allegation involves security-related concerns, and (3) the allegation involves an anonymous alleged, NRC Staff-Suspected or

Licensee-Identified Wrongdoing, or an allegor who specifically requests no correspondence from the NRC.

Allegor Responses after Closure

A Response after Closure (RAC) is defined as a verbal or written communication from the allegor to the NRC staff indicating that the NRC's closure of the allegation was, in some way, insufficient, inaccurate, or otherwise unacceptable to the allegor. A letter or phone call merely thanking the staff for its efforts should not be captured in AMS as a RAC, nor should a follow-up action the staff assigns itself, such as informing the allegor of a publicly available inspection report related to concerns raised by the allegor.

Since each RAC indicates that the allegor believes that the NRC response is inadequate in some aspect, it is appropriate for the staff to engage NRC senior management in a discussion regarding the agency's response to each allegor providing a RAC. Henceforth, the following guidance should be followed with respect to such correspondence.

An ARB will be held in each case involving an allegor RAC to discuss with senior management (namely the ARB Chairperson) the appropriate follow-up to the information provided by the allegor. NRC responses to RACs should normally be issued within 30 days.

NRC Contacts for Obtaining Guidance and Providing Feedback Concerning AGM Implementation

The staff should direct any questions about this guidance and provide any feedback regarding the impact this policy has on the effectiveness of the Allegation Program to David Vito in the Office of Enforcement. Mr. Vito can be reached by telephone at (301) 415-2319 or by e-mail at DJV@nrc.gov.

Enclosures:

1. Sample Allegation Acknowledgement Letter
2. Sample Allegation Status Letter
3. Allegation Review Board Worksheet – Considering a Request for Information to the Licensee
4. Sample Allegation Request for Information Letter to the Licensee
5. Checklist for NRC Staff Review of Licensee Response to an Allegation Request for Information
6. Sample Closure Letter to Allegor (For Other than Security Concerns)
7. Sample Closure Letter to Allegor (For Security-Related Concerns)
8. Sample Closure Memorandum to File (For Anonymous Allegations, NRC Staff-Suspected or Licensee-Identified Wrongdoing, or When an Allegor Specifically Requests No Correspondence from NRC)

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Distribution and Concurrence: See next page

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SAMPLE ALLEGATION ACKNOWLEDGMENT LETTER

XXXX-20XX-A-XXXX

(Alleger's Name and Address)

SUBJECT: Concern(s) You Raised to the NRC Regarding (facility name)

Dear Mr./Mrs./Ms. (Alleger's last name):

USE FOR ALL CONCERNS EXCEPT THOSE RECEIVED VIA DOL/OSHA DISCRIMINATION COMPLAINT

This letter refers to your (letter to, telephone conversation with, electronic mail message to, meeting with, interview with, etc.) (NRC staff member(s)) on/dated (date) in/during which you expressed concerns related to (general concern reference, e.g., maintenance issues, operations issues and alleged discrimination, etc.) at (facility name).

USE IN PLACE OF THE ABOVE SENTENCE IF ALLEGATION WAS RECEIVED VIA A DOL/OSHA DISCRIMINATION COMPLAINT

We are in receipt of the discrimination complaint that you filed with the U.S. Department of Labor (DOL) against _____ (licensee/certificate holder/applicant/contractor/vendor) at (site/facility). While your pursuit of a personal remedy in the matter of your (discrimination issue) is being evaluated by DOL, the NRC is tasked with regulating safety at facilities licensed by the NRC or using materials licensed by the NRC. In this role, it is our responsibility to evaluate any safety concerns that you may have raised in this matter. [INCLUDE IF DOL COMPLAINT DOES NOT ARTICULATE SPECIFIC SAFETY ISSUES] In order to determine whether or not you have specific safety concerns warranting NRC review, apart from the employment discrimination issues that are currently before DOL, it is requested that you contact (me/the NRC Region XX allegation coordinator) at the toll free telephone number noted below so that the details of your technical concerns may be discussed. If you choose, you may provide details regarding your technical concerns in writing to (me/Allegation Coordinator name) at (Allegation Office P. O. Box address).

USE FOR ALL LETTERS

Enclosure 1 to this letter documents your concern(s) as we understand (it/them). We have initiated actions to evaluate your concern(s) and will inform you of our findings. The NRC normally conducts an evaluation of a technical concern within six months, although complex issues may take longer. If the description of (your concern/any of your concerns) as noted in Enclosure 1 is not accurate, please contact me so that we can assure that your concern(s) (is/ are) appropriately described and adequately addressed prior to the completion of our review.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

(NOTE: This statement should appear only on the first page and the official record copy.)

[USE THE FOLLOWING SENTENCE IF TECHNICAL CONCERNS RELATED TO A DISCRIMINATION MATTER ARE BEING REVIEWED BY NRC] Please understand that your technical concern(s) will be evaluated separately from your discrimination concern, and you will receive a separate response to it/each technical concern. [INCLUDE IF SECURITY-RELATED CONCERNS ARE PART OF THE ALLEGATION] Regarding your security-related concerns, please be aware that the information NRC will provide you regarding our assessment of this issue may be limited, as appropriate, to ensure that we are not unnecessarily releasing information that would reveal any potential security-related vulnerabilities.

USE FOR GENERIC CONCERNS

After review of the information you provided, we have determined that (the concern(s) you raised OR some of the concerns you raised) may impact a number of facilities. Because the resolution of this/these concern(s) will require a review of multiple facilities and may require a review of and/or changes to NRC policy, the time necessary to resolve this/these concern(s) may be extended. Due to the potential general applicability of your concern(s), we have transferred (it/them) to the (affected program office), the NRC office responsible for resolving issues in this area. Your contact at (affected program office) is: (provide name, title, address phone number and e-mail of affected program office allegation coordinator)

USE WHEN A REQUEST FOR INFORMATION (RFI) FROM THE LICENSEE IS PLANNED OR IS AN OPTION

As part of our response to your concern(s), we (may/intend to) request (licensee name) to perform an evaluation and provide a written response to the NRC. In that case [NOTE: Do not use qualifying phrase "In that case" if first sentence of paragraph indicates that NRC intends to issue an RFI to the licensee], your name and any other identifying information will be excluded from the information that is provided to (licensee name) in the request for information. We (have requested/will request) that (licensee name's) evaluation be thorough, objective, and that the evaluator be independent of (licensee name) management responsible for oversight of the functional area related to your concern(s). We will evaluate (licensee name's) response, and consider it in developing our conclusions regarding your concern(s). We will inform you of our disposition once we have evaluated (licensee name's) response and taken any additional actions, if necessary, to address your concern(s). [USE IF APPLICABLE] In your conversation with (NRC employee name) on (date), you indicated that you would not object to the NRC requesting information from the licensee with regard to your concern(s).

USE IF RFI IS PLANNED OR IS AN OPTION AND ALLEGATION RECEIPT DOCUMENTATION DOES NOT INDICATE WHETHER THE ALLEGER OBJECTS TO NRC ISSUING AN RFI TO THE LICENSEE

Please contact (me/Allegation Coordinator name) at the toll free telephone number noted below if you have any objections to NRC issuing such a request for information. We will consider any objections that you may have before deciding to request a written response regarding your concern(s) from (licensee name), and make every attempt to contact you before a request for information is actually provided to (licensee name). If you do not contact us within [10] days of the date you receive this letter, it is our intent to proceed with issuance of the request for information to (licensee name).

USE IF ADDITIONAL INFORMATION IS NEEDED FROM THE ALLEGER

After evaluating the information you provided, we have determined that we will need additional information from you in order for the NRC to perform an effective review of your concern(s). For example, if you can provide...(provide examples of specific types of information that would support NRC review OR refer to a list of questions provided elsewhere, e.g., in Enclosure 1), such information would help us focus our review effort. [USE IF APPLICABLE] We have attempted to contact you by telephone without success. If you have any additional information to provide, please call (me/Allegation Coordinator name) at the toll free telephone number noted below, or contact (me/Allegation Coordinator name) in writing at (Allegation Office P. O. Box address), within [10] days of the date you receive this letter. If no additional information is received, (we will take no further action regarding this matter at this time OR we will proceed with our review based on available information).

USE IF ADDITIONAL INFORMATION WAS PROMISED BUT NOT RECEIVED

Based on your (conversation, telephone conversation, interview, etc.) with (NRC staff member(s)) on (date), it was understood that you would provide additional information to facilitate our review of your concern(s). To date, we have received no additional information from you. Please call (me/Allegation Coordinator name) at the toll free telephone number noted below, or contact (me/Allegation Coordinator name) in writing at (Allegation Office P. O. Box address), within [10] days of the date you receive this letter, to arrange for provision of the information. If no additional information is received, (we will take no further action regarding this matter at this time OR we will proceed with our review based on available information).

USE FOR REFERRALS TO STATES/AGREEMENT STATES

Because the NRC does not have jurisdiction over the activity(ies) in the State (Commonwealth) of _____ that are discussed in your concern(s), we are providing your concern(s) to the State (Commonwealth) of _____ for review and resolution. [USE IF ALLEGER WILL PERMIT RELEASE OF THEIR IDENTITY TO THE STATE/AGREEMENT STATE] Based on your willingness to contact and be contacted by the state, as indicated in your (discussion/phone conversation) with (NRC staff member(s)) on (date), we have provided your name and address to the State (Commonwealth) so that the State (Commonwealth) may provide feedback to you directly regarding this matter. Please note that the State (Commonwealth) may not be able to protect your identity to the same extent as the NRC. Your contact at the State (Commonwealth) of _____ is (provide address/phone number/e-mail address of state agency contact). [USE IF ALLEGER WILL NOT PERMIT HIS OR HER IDENTITY TO BE PROVIDED TO THE STATE/AGREEMENT STATE] Because you have requested that your name and address not be provided to the State (Commonwealth), we will request the State (Commonwealth) to respond directly to the NRC regarding your concerns. We will inform you of the State's (Commonwealth's) response after we receive it. [USE IF UNABLE TO ASCERTAIN IF ALLEGER WILL PERMIT HIS OR HER IDENTITY TO BE PROVIDED TO THE STATE/AGREEMENT STATE] We have attempted but have been unsuccessful in contacting you by telephone to determine if it would be acceptable to provide your name and contact information to the State (Commonwealth). As such, we have not provided your name and address to the State (Commonwealth) of _____ regarding this matter and we have requested the State (Commonwealth) to respond directly to the NRC regarding your concerns. We will inform you of the State's (Commonwealth's) response after we receive it. If after receiving this letter, you conclude that you would like to contact the State (Commonwealth) directly, you may contact the State (Commonwealth) at: (provide State (Commonwealth) contact information).

USE IF A RESPONSE FROM ANOTHER AGENCY IS NEEDED TO RESPOND TO AN ALLEGER'S CONCERN

We have determined that input is needed from (Agency Name) in order for the NRC to provide a complete response to your concern(s) related to (subject area). Therefore, we (are providing/have provided) these concerns to (Agency Name) for review and response. Your name and any other identifying information (will be/has been) excluded from the information that (is/was) provided to (Agency Name). We will review (Agency Name's) response to (this/these) concerns as part of our evaluation, and provide you with the results of that evaluation.

USE IF CONCERNS FALL WITHIN THE JURISDICTION OF ANOTHER AGENCY

We have reviewed your concern(s) and determined that the associated activity(ies) (is/are) not under NRC regulatory jurisdiction. The agency with jurisdiction in this matter is (Agency Name) and we have provided your concern to that agency. For any further information on this matter, you may contact (Agency Contact) at (Agency Address).

USE THIS FOR ALL LETTERS [NOTE: Do not include NRC standard identity protection wording indicated here in the acknowledgment letter if the alleged's identity is being provided to a State or other agency/entity or if alleged is considered a "widely known alleged" with regard to all of his/her concerns that are being acknowledged.]

In evaluating your technical* concern(s), the NRC intends to take all reasonable efforts not to disclose your identity to any organization, individual outside the NRC, or the public. It is important to note, particularly if you have raised this issue internally, that individuals can and sometimes do surmise the identity of a person who provides information to the NRC because of the nature of the information or other factors beyond our control. In such cases, our policy is to neither confirm nor deny the individual's assumption. [INCLUDE THE FOLLOWING SENTENCE IF AN RFI IS TO BE ISSUED TO THE LICENSEE] As indicated above, if a written request for information is provided to (licensee name) regarding (your technical* concern(s) OR some or all of your technical* concerns), your name and other identifying information will be excluded from the information that is provided to (licensee name). [Do not use qualifying phrase "if a request for information is provided to (licensee name)" in the previous sentence if the letter has earlier indicated NRC's intent to send an RFI vs. an option.] Enclosed with this letter is a brochure entitled "Reporting Safety Concerns to the NRC," which includes an important discussion of the identity protection provided by the NRC regarding these matters as well as those circumstances that limit the NRC's ability to protect an alleged's identity. Please read that section of the brochure. [ALTERNATE LANGUAGE FOR REPEAT ALLEGERS - OAC DISCRETION] In an earlier letter to you dated (date), pertaining to a concern/concerns you raised regarding (subject), you were provided an NRC brochure entitled, "Reporting Safety Concerns to the NRC." The brochure includes information regarding the NRC allegation process, identity protection, and the processing of claims of discrimination for raising safety concerns. If you need another copy of the brochure, please contact me. [ALTERNATE WORDING TO ABOVE SENTENCES REFERENCING BROCHURE AVAILABILITY] However, you should be aware that your identity could be disclosed regarding this matter if the NRC determines that disclosure is necessary to ensure public health and safety, to respond to an order of a court or NRC adjudicatory authority or to inform Congress or State or Federal agencies in furtherance of NRC responsibilities under law or public trust, to support a hearing on an NRC enforcement matter, per requirements of the Freedom of Information Act (FOIA), or if you have taken actions that are inconsistent with and override the purpose of protecting an alleged's identity.

[* - Note: If the alleged has also raised discrimination and/or other wrongdoing concerns, it may

be clearer to refer to the concerns being forwarded by RFI in this sentence as “technical concerns” vs. “concerns.”]

[USE IN PLACE OF ABOVE PARAGRAPH IF ALLEGER IS WIDELY KNOWN WITH RESPECT TO ALL CONCERNS OR IN ADDITION TO ABOVE PARAGRAPH IF ALLEGER IS WIDELY KNOWN WITH RESPECT TO ONE OR SOME CONCERNS]

(We are aware that OR It is our understanding) that you have (notified the media/discussed at a press conference on (date), identified at a public meeting on (date)) that you provided your concern(s) related to (subject area(s)) to the NRC. As a result, the NRC will be unable to protect your identity with regard to this/these concerns.

USE IF A CONCERN OR CONCERNS INVOLVE A WRONGDOING MATTER OTHER THAN ALLEGED DISCRIMINATION

Also, your identity may be disclosed at the NRC's discretion in order to pursue an investigation of issue(s) involving potential wrongdoing, such as the (subject: e.g., records falsification, deliberate misconduct) issue you brought to our attention.

USE IF A DISCRIMINATION COMPLAINT WAS PROVIDED BUT WAS DETERMINED NOT TO INVOLVE A PRIMA-FACIE SHOWING OF POTENTIAL DISCRIMINATION

We are not initiating an investigation into your assertion of discrimination at this time as explained in Enclosure 1 to this letter [NOTE: provide reasons that a prima-facie showing was not articulated in Enclosure 1 discussion of discrimination concern]. However, please understand that if the NRC initiates an investigation into your discrimination concern in the future based on additional clarifying information, your identity would be disclosed as part of that investigation since the evaluation of a matter of alleged discrimination without identifying you would be extremely difficult.

USE IF THE ALLEGER HAS ESTABLISHED A PRIMA-FACIE SHOWING OF POTENTIAL DISCRIMINATION

The NRC staff has reviewed your complaint of discrimination and has determined that an evaluation of your complaint is warranted. The NRC will consider enforcement action against NRC-regulated facilities that are found to have discriminated against individuals for raising safety concerns. However, please understand that the NRC cannot require that a personal remedy be provided to you (e.g., back pay, reinstatement). Means by which you can pursue a personal remedy are described later in this letter.

If you wish, your discrimination concern may be investigated by the NRC Office of Investigations (OI). During an investigation, OI gathers testimonial and documentary evidence related to your discrimination concern. Since performing such an investigation without identifying you would be extremely difficult, please be aware that your name will be disclosed during the course of an NRC investigation into your discrimination concern. If, on the basis of the OI investigation results, the NRC determines that your discrimination concern is substantiated, the NRC will consider enforcement action against (licensee name), as appropriate.

As an alternative to an investigation of your discrimination concern by OI, you may choose to participate in the NRC's alternative dispute resolution (ADR) program, which offers mediation in the handling of a complaint of discrimination. Mediation is a voluntary process where two parties, (you and your employer OR you and your former employer), use an unbiased, neutral

individual, or mediator, in an attempt to resolve and settle your complaint. If such an agreement is reached, the NRC will close your discrimination complaint upon settlement and will not perform an investigation. If a settlement is not reached with (your employer OR your former employer), the NRC (OI) may initiate an investigation into your complaint of discrimination. As mentioned above, the NRC's ADR program is voluntary, and any participant may end the mediation at any time. Additional information on this program is included in the attached brochure, "NRC's Early ADR Program" and more detailed information on the program can be found on our website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The NRC has asked Cornell University's Institute on Conflict Resolution (ICR) to aid you and (your employer OR your former employer) in resolving your discrimination concern through ADR. If you choose to participate in the NRC's ADR program, you must contact ICR directly at 1-877-733-9415 (toll free). You may contact ICR to discuss ADR in general, the NRC's ADR program, and any other information you are interested in related to resolving your discrimination concern. If you and (your employer OR your former employer) choose to participate in the ADR program, ICR will assist you in the selection of a mediator who would meet with you and (your employer OR your former employer) in an attempt to settle your complaint. If you select a mediator through ICR, there will be no charge to you (or your employer OR your former employer) for the mediator's services. If you participate in the ADR program, we ask that you complete the program evaluation form (supplied by ICR) at the completion of your participation so that we can evaluate the effectiveness of the program. We request that you make a decision regarding your interest in attempting mediation via the ADR program within 10 days of the date you receive this letter.

The NRC notes that employers are encouraged to develop similar dispute resolution processes internal to their company for use in conjunction with their own employee concerns programs. If you utilize (your employer's OR your former employer's) dispute resolution program to settle a discrimination concern, your (employer OR former employer) may voluntarily report the settlement to the NRC. If NRC is notified of an internal settlement before an NRC OI investigation is initiated, the NRC will request a copy of such a settlement agreement (when completed, if negotiations are ongoing) from the (employer OR former employer) and review it to determine if it contains any restrictive agreements in violation of NRC employee protection regulations. If no such restrictive agreements exist, NRC will typically close the discrimination complaint and will not perform an OI investigation, similar to what is done subsequent to an agreement reached by way of NRC-sponsored ADR.

Additionally, please note that, while participation in the NRC's ADR program may result in negotiation of the issues which form the basis of your discrimination complaint with (your employer OR your former employer) under Section 211 of the Energy Reorganization Act of 1974, the timeliness requirement for filing a claim of discrimination with the U.S. Department of Labor (DOL) (180 days) is in no way altered by the NRC's ADR Program. In this aspect, we note that DOL has the authority to order personal remedies in these matters. For this reason, the filing of a discrimination complaint with DOL should be considered at the same time you are considering use of the NRC ADR program. While there is a likelihood that DOL may choose to await the completion of an attempted ADR mediation given the prospect that a mutually agreeable settlement may be reached, timely filing of a discrimination complaint with DOL assures that DOL will review your discrimination claim in the event that ADR is unsuccessful. In order to protect your right to file a discrimination claim with DOL under 29 CFR Part 24, DOL's "Procedures for Handling of Discrimination Complaints Under Federal Employee Protection Statutes" (copy enclosed), 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 occurred first. Any such complaint can

be filed with DOL Regional Offices for the Occupational Safety and Health Administration (OSHA). Your complaint must describe the safety issues(s) you raised, the resulting adverse personnel action taken against you, and the causal relationship between them. If you choose to file a complaint, it should be filed with: (INSERT ADDRESS OF APPROPRIATE OSHA REGIONAL OFFICE).

USE WHEN ALLEGER HAS BEEN GRANTED CONFIDENTIALITY

(With respect to your request for confidentiality OR With respect to the Confidentiality Agreement you signed), please be assured that the NRC will make every effort to maintain your confidentiality while resolving this matter. [INCLUDE THE FOLLOWING SENTENCE IF THE CONFIDENTIALITY AGREEMENT HAS YET TO BE EXECUTED] Please read the attached Confidentiality Agreement, sign and date it, and return it in the self-addressed, stamped envelope provided. It is important to note that individuals can and sometimes do surmise the identity of a person who provides information to the NRC because of the nature of the information or other factors beyond our control. In such cases, our policy is to neither confirm nor deny the individual's assumption. [INCLUDE THE FOLLOWING SENTENCES FOR ALLEGED DISCRIMINATION MATTERS] You should be aware that the NRC normally will not investigate a case of potential discrimination against an alleger for raising safety issues if the alleger is a confidential source. A matter of alleged discrimination cannot be investigated if an alleger's name is kept confidential.

USE IF AN ALLEGER HAS ALSO PROVIDED ISSUES RELATED TO THE PERFORMANCE OF NRC STAFF

With respect to your concern(s) regarding the performance of the NRC staff, these matters have been referred to the NRC Office of Inspector General (OIG). If you have any questions or other comments on this matter/these matters, you should contact the OIG directly at 1-800-233-3497. [NOTE: If the issue has not been formally referred to the OIG after review by appropriate personnel within the affected regional or program office, the acknowledgment letter should simply acknowledge the alleger's comments and provide OIG contact information as an option.]

USE FOR ALL LETTERS

If a request is filed under the Freedom of Information Act (FOIA) related to your area(s) of concern, the information provided will, to the extent consistent with that act, be purged of names and other potential identifiers. [FOR ALLEGERS WITHOUT CONFIDENTIALITY] Further, you should be aware you are not considered a confidential source unless confidentiality has been formally granted in writing.

[INCLUDE IF NRC BROCHURE WAS NOT REFERENCED EARLIER IN THE ACKNOWLEDGMENT LETTER] Enclosed with this letter is a brochure entitled "Reporting Safety Concerns to the NRC," which contains information that you may find helpful in understanding our process for review of safety concerns. The brochure contains an important discussion of the identity protection provided by the NRC regarding these matters as well as those circumstances that limit the NRC's ability to protect an alleger's identity. [ADD IF THE ALLEGATION INCLUDES A DISCRIMINATION CONCERN] The brochure also includes a discussion of the right of an individual to file a complaint with the DOL if the individual believes she or he has been discriminated against for raising safety concerns and the individual desires a personal remedy. [ALTERNATE LANGUAGE FOR REPEAT ALLEGERS - OAC DISCRETION] In an earlier letter to you dated (date), pertaining to a concern/concerns you raised regarding (subject), you were provided an NRC brochure entitled, "Reporting Safety

Concerns to the NRC." The brochure includes information regarding the NRC allegation process, identity protection, and the processing of claims of discrimination for raising safety concerns. If you need another copy of the brochure, please contact me.

Thank you for notifying us of your concern(s). We will advise you when we have completed our review. Should you have any additional questions, or if the NRC can be of further assistance, please call me toll-free at the NRC Safety Hotline at 1-800-695-7403 (if the alleged resides in the geographical area of the action office) OR the (regional/office) toll-free number 1-800-XXX-XXXX (if the alleged does not reside in the geographical area of the action office) or you may provide information to me in writing at (Allegation Office P.O. Box address). [USE THE FOLLOWING AS DEEMED NECESSARY BY THE OAC] You may also communicate with me by electronic mail, if you so choose. However, when doing so, please call me in advance or provide your phone number in your e-mail message so that I can confirm that you are the source of the information. Also, please be advised that the NRC cannot protect the information during transmission on the Internet and there is a possibility that someone could read your response while it is in transit. My e-mail address is XXX@nrc.gov.

Sincerely,

Enclosure(s): As stated

FORMAT FOR ENCLOSURE 1 TO ACKNOWLEDGMENT LETTER

STATEMENT OF CONCERNS
ALLEGATION NO. XXX-200X-A-XXXX

Concern 1:

Describe the alleged's first concern.

Concern 2:

Describe the alleged's second concern.

[Repeat for additional concerns]

SAMPLE ALLEGATION STATUS LETTER

XXXX-200X-A-XXXX

(Alleger's Name and Address)

SUBJECT: Concerns You Raised to the NRC Regarding (facility name)

Dear Mr./Mrs./Ms. (alleger's last name):

USE FOR ALL LETTERS

This letter pertains to the concern(s) you raised to the NRC in your (letter of, electronic mail message dated, conversation with (NRC staff member) on, interview with (NRC staff member) on, meeting with the resident inspector on, etc.) (date), regarding (general concern reference, e.g., maintenance issues, operations issues and alleged discrimination, etc.) at (facility name). (Use the following sentences, as appropriate, if the alleger provided information in addition to that provided in the initial correspondence or contact.) In addition to the information you provided on (initial allegation receipt date), you also (called (NRC staff member(s)), wrote to the NRC, met with (NRC staff member(s))) on (date). In/During this/these subsequent (letter(s), conversation(s), meeting(s)), you provided additional information regarding (general additional concern reference).

USE IF ALL CONCERNS ARE STILL OPEN

Your concern(s) ((is/are) being reviewed by NRC) OR ((Licensee name) was requested to provide a written response to your concern(s) for NRC evaluation). We are reviewing (licensee name's) response to determine if any additional action by NRC is appropriate. When we have completed our review, we will notify you of our findings, actions, and the final evaluation of your concern(s).

USE IF SOME CONCERNS ARE CLOSED WHILE OTHERS ARE STILL OPEN

We have completed our review of (some, XX number) of your concerns, as indicated on Enclosure (X) to this letter. (On a separate enclosure (see sample Enclosure), restate each concern and describe the NRC evaluation and conclusions for every issue for which NRC efforts have been completed since the last correspondence with the alleger.) (Use the following sentence if concern results are documented in an inspection report.) We note that detailed results of NRC inspection efforts regarding this/these concern(s) are further documented in NRC Inspection Report (XX-XXX/200X-XXX) which has been enclosed for your information. The NRC staff (is continuing with its review of your other concern(s) OR has requested a written a response from (licensee) regarding your other concern(s) OR is reviewing (licensee name's) response to your concern(s), etc.). When we have completed our review, we will notify you of our findings, actions, and the final evaluation of your concern(s).

CERTIFIED MAIL

RETURN RECEIPT REQUESTED (Note: Use only on the first page)

FOR ALLEGATION CONCERNS INVOLVING SECURITY-RELATED INFORMATION

[If any of the concerns being closed in the status letter are security-related, refer to Enclosure 7, "Sample Closure Letter to Allegor (For Security-Related Concerns)," for appropriate cover letter wording depending on the security concern category.]

USE FOR ALL LETTERS

Thank you for notifying us of your concerns. We will advise you when we have completed our review. If I can be of further assistance, please call me toll-free at the NRC Safety Hotline at 1-800-XXX-XXXX (if the allegor resides in the geographical area of the action office) OR the (regional/office) toll-free number 1-800-XXX-XXXX (if the allegor does not reside in the geographical area of the action office).

Sincerely,

Enclosure(s): As stated

[IF CONCERNS WERE CLOSED SINCE THE LAST LETTER TO THE ALLEGER, PROVIDE THE CLOSURE INFORMATION FOR THOSE CONCERNS IN AN ENCLOSURE TO THE STATUS LETTER AS DESCRIBED BELOW]

FORMAT FOR STATUS LETTER ENCLOSURE DESCRIBING NRC EVALUATION OF ALLEGATION CONCERNS

RESPONSE TO CONCERNS
ALLEGATION NO. XXXX-YYYY-A-XXXX

Concern 1:

Restate the allegor's concern as provided in the acknowledgment letter, as modified by the allegor, or as clarified by the allegor (if the allegor provided clarifying information to better describe his or her concern during the course of NRC's review).

Response to Concern 1:

[Provide a direct answer to each of the closed concerns, stating what was evaluated, how it was evaluated, and providing NRC's conclusions regarding the validity of the concern. It is preferable that an overall conclusion be provided indicating that the concern was substantiated, unsubstantiated, or partially substantiated, as long as that overall conclusion is well supported by the accompanying discussion regarding the evaluation of the concern. However, if providing such an overall conclusion will be confusing to the allegor (e.g., if aspects of the concern were substantiated, but the alleged impropriety or inadequacy was not found to be valid), alternate wording may be used, such as... "while NRC was able to substantiate that certain (facts/statements/conditions regarding _____) were true, NRC was unable to confirm or validate an impropriety or inadequacy associated with NRC-regulated activity." (If appropriate add: We have documented our findings in (inspection report number, or other document citation) dated _____. A copy of the relevant section(s) of the report/document is/are enclosed.]

FOR A CLOSED CONCERN THAT INVOLVED AN RFI TO THE LICENSEE

[If an RFI was sent to the licensee, the documentation of allegation concern closure should reference the feedback provided by the licensee but should also distinctly describe NRC's evaluation and conclusions regarding the concern based on all pertinent information, including the licensee's RFI response. Specifically, in addition to restating the allegor's concern, the concern response should separately describe (1) the licensee's evaluation and response and (2) NRC's evaluation of the licensee's response and overall conclusions regarding the validity of the concern. The description of NRC's evaluation of the licensee's response should articulate any NRC staff independent verification, inspection, or investigative efforts conducted to validate aspects of the licensee's response.]

FOR CLOSED ALLEGATION CONCERNS INVOLVING SECURITY-RELATED INFORMATION

[If any of the concerns being closed in the status letter are security-related, refer to Enclosure 7, "Sample Closure Letter to Allegor (For Security-Related Concerns)," for appropriate response wording depending on the security concern category.]

[Repeat for Additional Concerns]

ALLEGATION REVIEW BOARD WORKSHEET
 Considering a Request for Information to the Licensee

The purpose of this worksheet is to assist the staff in determining whether a Request for Information (RFI) should be issued to a licensee, and support the development of the proposed basis for Allegation Review Board (ARB) assignment of this action. "Yes" answers to the four Yes-No questions below indicate that an RFI would normally be issued, while "No" answers indicate that an NRC inspection/technical review would normally be preferable. However, circumstances may exist, as indicated below, that support the use of an RFI in conjunction with an NRC inspection/technical review.

Note: The term "licensee" in the worksheet refers to any NRC licensee, certificate holder, license or certificate applicant, or vendor that may be the subject of an allegation concern.

Allegation Number: _____ Affected Concern(s): _____

A: Overriding Safety Issue (OSI)

Yes No Does the allegation concern represent an OSI?

Note: An RFI will normally be issued to the licensee (verbally first, then in writing), if an OSI exists, regardless of any other factor noted on this worksheet. In this instance, the consideration of a waiting period for allegor feedback regarding a proposed RFI is waived. Other factors discussed below should be considered to determine if it is preferable to conduct an NRC inspection/review in conjunction with the RFI.

Comments: _____

B: RFI Inhibiting Conditions – If the concern does not involve an OSI, consider the validity of the following statements related to conditions that would normally inhibit issuing an RFI:

- True False The allegor objects to the NRC issuing an RFI and information cannot be released in sufficient detail to the licensee without compromising the allegor's identity.
- True False Licensee could compromise an NRC investigation or inspection because of knowledge gained from the RFI.
- True False Concern is against senior licensee management, such that an independent and effective evaluation is unlikely through the use of an RFI.
- True False A Federal or State agency providing the information does not approve of the RFI.

Yes No Are all of the above statements "False," indicating that conditions do not exist that would normally inhibit the issuance of an RFI?

Comments: _____

Note: If it is ultimately determined that an RFI will be issued, but the above conditions may limit the effectiveness of the RFI, NRC review/inspection activity should be considered by the ARB to supplement information to be obtained from the RFI response.

C: Allegation/Inspection History Consideration – Consider the validity of the following statements related to history/trends in allegations, NRC inspections and investigations that may indicate an NRC inspection or technical review is preferable to an RFI or should be considered in conjunction with an RFI. As needed, the program offices should request assistance from the regional offices in obtaining this information.

- True False The action office is aware of problems with the site’s responses to RFIs in the last 2 years that could impact the quality of the licensee’s response to an RFI related to this concern.
- True False The action office is aware of allegation trends at the site in the past 2 years, whether substantiated or not, that indicate the NRC should independently evaluate the concern(s) (e.g., multiple or repeated allegations of a similar nature).
- True False The Mid-Cycle or EOC Review (reactor licensees) or other assessment results indicate problems with the site’s ability to identify and resolve problems, which could impact the quality of the licensee’s response to an RFI related to this concern.

Yes No Are all of the above statements “False,” indicating there are no known circumstances that suggest the licensee might not effectively evaluate, document, and resolve the allegation concern?

Comments: _____

D: Inspection/Technical Review Consideration: Consider the validity of the following statements that might indicate an NRC inspection or technical review of the concern(s) is preferable to an RFI or should be considered in conjunction with an RFI.

- True False The alleged objects to the NRC issuing an RFI to the licensee.
- True False The alleged has taken the concern to the licensee with unsatisfactory results.
- True False NRC evaluation can be as, or more, timely and efficient than licensee’s.
- True False Allegation/concern can be evaluated during an ongoing or planned NRC inspection.
- True False NRC is already evaluating other aspects of the same or similar issues and evaluation of the allegation concern can be included.
- True False Significant public/Commission interest warrants independent assessment of concern(s).
- True False Other reasons to consider conducting an inspection/technical review. Describe: _____

Yes No Are there statements above marked “False” that collectively suggest an NRC inspection/technical review is not preferable?

Comments: _____

E: Proposal for ARB Assigned Action and Basis

RFI Inspection/Technical Review Both

Basis: _____

SAMPLE ALLEGATION REQUEST FOR INFORMATION (RFI) LETTER TO THE LICENSEE

OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION

(Use this header on each page if the RFI contains SUNSI Security-Related Information)

Licensee management representative
Licensee address

XXXX-YYYY-A-XXXX

Dear _____:

The U.S. Nuclear Regulatory Commission recently received information concerning activities at (site/facility). We request that (licensee name) evaluate the information described in the Enclosure to this letter and submit the results of that evaluation to (regional or program office). Within 30 days of the date of this letter, we ask that you inform (regional or program office contact) in writing the details of your evaluation and your findings related to the validity of the information provided. If (licensee name) determines a concern to be substantiated, please discuss (licensee name's) consideration of appropriate root causes and generic implications of the substantiated concern, and the appropriateness of corrective actions taken or planned. Additionally, if your evaluation identifies any compliance issue with regard to NRC regulatory requirements or NRC commitments, please inform us regarding the requirement or commitment that was violated, the corrective actions taken or planned, and the corrective action documentation that addressed the issue. We ask that you reference our tracking number (XXXX-YYYY-A-XXXX) in your written response and also that you make any records of your evaluation available for possible NRC inspection.

The NRC will review your response to determine whether: (a) the individual conducting the investigation was independent of the organization with responsibility for the related functional area; (b) the evaluator was proficient in the related functional area; and (c) the evaluation was of sufficient depth and scope. Your response should describe how each of these attributes was satisfied. If individuals were interviewed as part of your review, your response should include the basis for determining that the number and cross section of individuals interviewed was appropriate to obtain the information necessary to fully evaluate the concern(s), and the interview questions used. If your evaluation included a sample review of related documentation and/or potentially affected structures, systems, and components, your response should include the basis for determining that the selected sample size was appropriately representative and adequate to obtain the information necessary to fully evaluate the concern(s). The NRC will consider these factors in reviewing the adequacy of your evaluation of this/these issue(s).

We request that your response only be sent to (regional or program office contact) at the following address: [Name and address of regional or program office contact]. No other copies should be sent to the NRC, i.e., your response should not be docketed or otherwise submitted to the NRC Document Control Desk. We also request that your response contain no personal

OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION

(Use this footer on each page if the RFI contains SUNSI Security-Related Information)

OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION
 (Use this header on each page if the RFI contains SUNSI Security-Related Information)

Addressee

XXXX-YYYY-A-XXXX

privacy, proprietary, or safeguards information. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

[FOR RFI THAT CONTAINS SECURITY-RELATED SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI), INCLUDE THIS PARAGRAPH] The information in the Enclosure to this letter contains SUNSI Security-Related Information in accordance with 10 CFR 2.390(d)(1) and its disclosure to unauthorized individuals could present a security vulnerability. Please mark the top of each page of your response with "Security-Related Information – Withhold Under 10 CFR 2.390," and follow the instructions for withholding information contained in 10 CFR 2.390 (b)(1). In accordance with 10 CFR 2.390 (b)(1)(ii), NRC is waiving the requirement for your response to be accompanied by an affidavit.

This letter and its enclosure should be controlled and distribution limited to personnel with a "need to know." The response requested by this letter and the accompanying enclosure are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Lastly, we ask that you contact the NRC as your review effort begins, to assure a common understanding of the issues discussed in the Enclosure, and the NRC's expectations for follow-up and response. Please contact (regional or program office contact) at (telephone #) with this information and with any additional questions you may have at this time concerning this request.

Sincerely,

[NRC manager as designated by region/program
office management]

Enclosure: As stated

bcc w/encl: Allegation File No. XXX-YYYY-A-XXXX

OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION
 (Use this footer on each page if the RFI contains SUNSI Security-Related Information)

SAMPLE ENCLOSURE TO RFI LETTER TO THE LICENSEE REGARDING AN ALLEGATION

OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION

(Use this header on each page if the RFI contains SUNSI Security-Related Information)

NOT FOR PUBLIC DISCLOSURE

(Use this header on each page of the RFI enclosure if RFI DOES NOT contain SUNSI Security-Related Information)

XXXX-YYYY-A-XXXX

Issue 1:

The NRC has received information that ... (for each concern, provide as much information as possible to enable the licensee to perform an effective review. The information is to be provided in a manner that does not include the identity of the alleged or information that could permit the licensee to identify the alleged, and that does not compromise an ongoing NRC investigation or inspection.)

[Note: If the allegation is received in writing, the alleged's incoming correspondence normally should not be forwarded with the RFI. Rather, the alleged's concerns are summarized in this enclosure, including being rewritten so as not to use the alleged's exact wording. If the ARB determines that the safety implications of an allegation concern warrant providing a copy of the original information supplied by the alleged with the RFI rather than an NRC summary, every effort should be made to notify the alleged of the NRC's proposed action and obtain agreement from the alleged, in writing, if possible. If the alleged objects to the inclusion of his/her original correspondence in the RFI, NRC should acknowledge the alleged's feedback and, if possible, come to an agreement with the alleged as to the content of the information that will be transmitted. If the alleged objects to the inclusion of his/her original correspondence in the RFI and NRC does not agree with the alleged's objection because the matter represents an overriding safety issue, the NRC may include the alleged's incoming correspondence in the RFI over the alleged's objection. The results of any such interface with the alleged should be documented in the allegation file.]

In addition to the response information requested in the cover letter, we ask that your response address or include the following:

Examples of additional detail that may be requested:

- ...answers to the following questions related to this issue
- ...a description of the process that monitors this issue
- ...a description of or a copy of the procedure that governs this activity
- ...a diagram that shows how the equipment interfaces with other systems

[Note: If the alleged has previously raised the issue internally to the licensee and was not satisfied with the licensee's feedback, and does not object to NRC providing a written RFI to the licensee regarding the concern, the letter to the licensee should, in addition to describing the concern, describe the asserted inadequacy in the licensee's internal response efforts.]

NOT FOR PUBLIC DISCLOSURE

(Use this footer on each page of the RFI enclosure if RFI DOES NOT contain SUNSI Security-Related Information)

OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION

(Use this footer on each page if the RFI contains SUNSI Security-Related Information)

CHECKLIST FOR NRC STAFF REVIEW
of
Licensee Response to an Allegation Request For Information

The purpose of this checklist is to assist the staff in evaluating the adequacy of a licensee’s response to an allegation Request for Information (RFI), independently verifying aspects of the information provided by the licensee, and to support the development of the proposed basis for additional staff actions if it is determined that the licensee’s response is inadequate, inaccurate, or otherwise unacceptable.

Note: The term “licensee” in the worksheet refers to any NRC licensee, certificate holder, license or certificate applicant, or vendor that may be the subject of an allegation concern.

Allegation Number: _____ Affected Concern(s): _____

A: Determining the Adequacy of the Licensee’s Response to an Allegation RFI

Note: “Yes” answers normally indicate that the licensee’s response to an RFI is adequate, while “No” answers indicate additional action may be necessary.

Evaluator Independence

Yes No Does the relationship between the individual(s) chosen by the licensee to evaluate the concern(s) and the concern(s) being evaluated allow for appropriate objectivity (e.g., third party or internal evaluator, but not in the same management chain as those involved in concern(s))?

Note: Use best judgment for smaller organizations when clear management chain independence may not be possible.

Comments: _____

Evaluator Competence

Yes No Based on the information provided, is the evaluator competent in related functional area? Comments: _____

Depth and Scope of Evaluation

- Yes No Are all RFI-related concerns addressed?
- Yes No Is the evaluation rigor commensurate with the level of concern detail provided? For example, if appropriate, did evaluation include extent of condition review, root/apparent cause assessment, or generic considerations?
- Yes No Are the conclusions provided by the licensee supported by the evaluation?
- Yes No Are all affected personnel/groups/departments considered in the evaluation? For example, if interviews were conducted, did the licensee describe the basis for the number and cross section of individuals interviewed and is basis adequate? Were the interview questions appropriate?
- Yes No N/A If the NRC asked additional specific questions, are they answered satisfactorily?
- Yes No N/A If the names of specific individuals were referenced in the RFI, did the licensee contact those individuals and/or appropriately consider their involvement in the allegation concern?

Yes No N/A If specific documentation was referenced in the RFI, did the licensee evaluate that documentation and/or appropriately consider it in the evaluation of the allegation concern?

Yes No N/A If the licensee reviewed a sample of related documentation and/or potentially affected structures, systems, and components, did the licensee describe the sample and provide the basis for determining that the sample size was appropriately representative?

Comments: _____

Effectiveness of Corrective Actions

Yes No N/A If applicable, were appropriate immediate corrective actions taken by the licensee?

Yes No N/A If applicable, were operability and reportability determinations appropriate?

Yes No N/A If applicable, were appropriate corrective actions proposed?

Yes No N/A If applicable, were issues entered into the corrective action program?

Comments: _____

NRC Violations (substantiated concerns only)

Yes No N/A If the substantiated concern represents a violation, did the licensee appropriately acknowledge and articulate the violation in response to the RFI? Comments: _____

B: NRC Independent Review Effort

NRC staff evaluating licensee RFI response should attempt to independently validate aspects of the information provided by the licensee. Indicate any of the following that apply:

- Additional questions posed to the licensee.
- Performed or coordinated an independent inspection or technical review activity to verify a condition indicated in the response.
- Reviewed the results of recently conducted NRC inspections in the functional area related to the allegation concerns.
- Verified the existence and applicability of technical references noted in the response.
- Verified the existence and applicability of procedures referenced in the response. Ensured revision number referenced is appropriate.
- Verified the existence and content of corrective action program documentation referenced in the response.
- Checked calculations noted in the response.
- Other. Describe: _____

Comments: _____

C: CONCLUSION

Adequate RFI Response

Inadequate RFI Response

Basis: _____

Note: Notify the responsible Branch Chief and the OAC of the results of this review.

SAMPLE CLOSURE LETTER TO ALLEGER
(FOR OTHER THAN SECURITY CONCERNS)

Alleger's Name and Address

XXXX-YYYY-A-XXXX

SUBJECT: Concern(s) You Raised to the NRC Regarding (Site/Facility)

Dear (Alleger's Name):

USE FOR ALL LETTERS

The NRC has completed its follow up in response to the concern(s) you brought to our attention on (date) regarding (site/facility). You were concerned about (brief summary of concerns) OR Your concerns were related to (brief reference to functional area(s), e.g., operations, operator qualification, health physics program implementation, maintenance backlog, plant configuration control, etc.). Enclosure 1 to this letter restates your concern(s) and describes the NRC's review and conclusions with regard to (that/each) concern.

SUBSTITUTE THE FOLLOWING FOR THE ABOVE PARAGRAPH IF THE ALLEGER FAILED TO PROVIDE ADDITIONAL INFORMATION, AS NEEDED OR REQUESTED

This letter refers to our letter to you dated _____, in which we requested that you contact us to provide additional information regarding your concern(s) related to (general description of concern(s)) at (site/facility). You discussed (this/these) concern(s) (in your letter dated (date)) (during your conversation with _____ on (date)). (If additional telephone or personal contacts occurred, refer to them here.) Since you have not contacted us to provide the additional information we requested, the NRC plans no further action regarding this/these matter(s). (Add the following sentence, if appropriate.) (We have, however, alerted our inspectors to your general concerns so that they can pay particular attention to those areas during their routine inspections.)

USE FOR ALL LETTERS

Thank you for informing us of your concerns. We believe that our actions in this matter have been responsive. ((If needed, either or both of the following sentences may be used. Also consider using if allegation involves a Response After Closure or a revisited case.) Closure of an allegation does not prevent us from revisiting a concern, especially if we obtain new information. Allegations are an important source of information in support of the NRC's safety mission. We take our safety responsibility to the public seriously and will continue to do so within the bounds of our lawful authority. (USE NEXT SENTENCE IN CASES WHERE WE HAVE NOT SUPPORTED THE ALLEGER'S CONCERNS - otherwise, remove it.) Unless the NRC receives additional information that suggests that our conclusions should be altered, we plan no further action on this matter. Should you have any additional questions, or if I can be of further assistance in this matter, please call me on the NRC Safety Hotline at xxxxxxx) OR the (regional/office) toll-free number 1-800-XXX-XXXX (if the alleger does not reside in the geographical area of the action office).

Sincerely,

Enclosure(s): As stated

CERTIFIED MAIL or Other Appropriate Carrier
RETURN RECEIPT REQUESTED (Note: This statement should appear on the first page and the official record copy.)

FORMAT FOR ENCLOSURE DESCRIBING NRC EVALUATION OF ALLEGER'S CONCERNS

RESPONSE TO CONCERNS
ALLEGATION NO. XXXX-YYYY-A-XXXX

Concern 1:

Restate the allegor's concern as provided in the acknowledgment letter, as modified by the allegor, or as clarified by the allegor (if the allegor provided clarifying information to better describe his or her concern during the course of NRC's review).

Response to Concern 1:

(Provide a direct answer to each of the allegor's concerns, stating what was evaluated, how it was evaluated, and providing NRC's conclusions regarding the validity of the concern. It is preferable that an overall conclusion be provided indicating that the concern was substantiated, unsubstantiated, or partially substantiated, as long as that overall conclusion is well supported by the accompanying discussion regarding the evaluation of the concern. However, if providing such an overall conclusion will be confusing to the allegor (e.g., if aspects of the concern were substantiated, but the alleged impropriety or inadequacy was not found to be valid), alternate wording may be used, such as... "while NRC was able to substantiate that certain (facts/statements/conditions regarding _____) were true, NRC was unable to confirm or validate an impropriety or inadequacy associated with NRC-regulated activity." (If appropriate add: We have documented our findings in (inspection report number, or other document citation) dated _____. A copy of the relevant section(s) of the report/document is/are enclosed.)

FOR ANY CONCERN THAT INVOLVED AN RFI TO THE LICENSEE

[If an RFI was sent to the licensee, the documentation of allegation concern closure should reference the feedback provided by the licensee but should also distinctly describe NRC's evaluation and conclusions regarding the concern based on all pertinent information, including the licensee's RFI response. Specifically, in addition to restating the allegor's concern, the concern response should separately describe (1) the licensee's evaluation and response and (2) NRC's evaluation of the licensee's response and overall conclusions regarding the validity of the concern. The description of NRC's evaluation of the licensee's response should articulate NRC staff independent verification, inspection, or investigative efforts conducted to validate aspects of the licensee's response.]

[Repeat for Additional Concerns]

Suggested Wording for Closure Letter Responses to Certain Types of Concerns

If NRC Action Is Complete and the Concern Involved 10 CFR 2.390 Information, in Whole or in Part, Include the Following in the Concern Response:

"Your concern dealt with (proprietary information, personal privacy matters about another individual, medical records, etc.) and the details are exempt from disclosure to you or the public in general, so we are unable to provide you with specific details related to our evaluation." (Add a brief statement as to whether or not the concern was substantiated, unsubstantiated, or partially substantiated without providing specific details of the findings.) (If the concern involved security-related information, refer to Enclosure 7, "Sample Closure Letter to Allegor (For Security-Related Concerns)," for appropriate response wording depending on the security concern).]

If OI Returns a Potential Wrongdoing Issue to the Staff for Lack of Resources or Based on Priority, Including Employee Discrimination, Include the Following in the Concern Response:

“On the basis of our review of your concern of (describe wrongdoing concern) and other cases needing investigation by the NRC, the NRC will not be expending further investigatory efforts on the potential wrongdoing aspects of your concern. This is not a finding that your wrongdoing concern does not have merit. Rather it is recognition that the NRC must focus its limited investigatory resources on cases of higher priority. (Explain what was done with the technical aspect of the wrongdoing concern (e.g., "The staff reviewed the impact on safety of the alleged falsified record and determined..., etc.). (For discrimination cases only). Accordingly, absent a finding of discrimination by DOL (if applicable), or any additional substantial information and/or evidence from you that would support your discrimination concern(s), the staff plans no further follow up on the concern you have provided to the NRC.”

Discussion of Enforcement/Assessment Process Outcomes

While it is appropriate to indicate in response to an alleged concern whether the NRC's evaluation of the concern identified a violation of NRC requirements or an ROP finding, it is not imperative that the alleged be informed of the specific enforcement action taken or finding categorization via the ROP. In other words, it is sufficient, in most instances, to indicate that a violation or finding was identified and that the categorization of the violation or finding and the licensee's follow up activities will be determined by the Enforcement Process or the Reactor Oversight Process. However, if the violation or finding has already been determined or categorized, and responsible staff believe that providing specific information about the NRC violation or finding will improve the concern response, this information may be discussed in the closure letter. With regard to a substantiated discrimination concern in particular, it is logical that the alleged would have an interest in any specific NRC regulatory action taken against the licensee. The following examples of closure letter wording apply to different types of violations and findings:

1. Concern Resulting in a Minor Violation Not Being Documented in an Inspection Report

The safety significance of the violation of [briefly discuss identified violation] was evaluated by the NRC and found to be minor. The licensee has been informed of this matter and has (entered this matter into the corrective action program, initiated/taken corrective actions, etc.). Minor violations represent items of low safety significance and are not subject to formal enforcement action or documentation by the NRC. Therefore, this minor violation will not be documented in an inspection report, and no further regulatory action is planned.

2. Concern Resulting in the Issuance of a Non-Cited Violation

During the NRC (inspection/investigation) of this matter, a violation of NRC requirements was identified. Because the issue had limited safety significance, the NRC has categorized the issue as a Non-Cited Violation (NCV). (Licensee name) is required to correct the NCV.

3. Concern Resulting in the Issuance of a Notice of Violation (and/or a Civil Penalty)

During the NRC (inspection/investigation) of this matter, a violation of NRC requirements was identified. The NRC issued a Notice of Violation (and Proposed Imposition of Civil Penalty in the amount of (\$ _____)) to the licensee (attached). (Licensee name) is required to inform us of the corrective actions it has taken or plans to take regarding the identified violation. Our inspectors will continue to monitor (licensee name's) activities to ensure proper resolution of this matter.

4. Concern Resulting in the Identification of an Apparent Violation that the NRC Is Considering for Escalated Enforcement Action

During the NRC (inspection/investigation), an apparent violation of NRC requirements was identified. The NRC has notified (licensee name) of this issue (attached) and has given (licensee name) the opportunity to respond to the apparent violation in writing or to participate in a pre-decisional enforcement conference before NRC makes its enforcement decision. If NRC subsequently concludes that significant enforcement action is warranted, the action will be made publicly available at a later time. We will continue our oversight of this matter to ensure proper resolution.

Sample Closure Letter Wording Related to an Offsite Emergency Preparedness Concern that has been Referred to FEMA

As indicated in our previous correspondence to you dated (date), we contacted the Federal Emergency Management Agency (FEMA) to assist in reviewing the issue. In a letter dated (date of FEMA referral response), FEMA provided the results of their review and evaluation of the issue. Based on the information you provided to us and additional information provided by FEMA, the NRC staff (has substantiated/was unable to substantiate) your concern. (If concern(s) are substantiated, add the following) Specifically, the staff substantiated (give description of substantiation).

The NRC will pursue the substantiated concern(s) with the licensee. Any actions deemed necessary will be conducted outside the allegation process.

SAMPLE CLOSURE LETTER TO ALLEGER (FOR SECURITY-RELATED CONCERNS)

Alleger's Name
and Address

XXXX-200X-A-XXXX

Subject: Concerns You Raised to the NRC Regarding (Facility Name)

Dear (Alleger's Name):

[FOR ALL LETTERS] The NRC has completed its follow-up in response to the concern(s) you brought to our attention on (date) regarding security issues at (facility name). [FOR CATEGORY III CONCERNS] Enclosure 1 to this letter restates your concern(s) and describes the NRC's review and conclusions regarding (that concern/each concern) [Add the following to this sentence FOR CATEGORY III CONCERNS WHICH RESULT IN A MINOR FINDING OR VIOLATION REQUIRING COMPENSATORY ACTIONS, WHEN THE ALLEGER IS A SECURITY FORCE MEMBER AT THE FACILITY] and makes note of a discussion that [was OR is to be] held with you to discuss compensatory actions taken in relation to your concern(s).

[FOR CATEGORY I AND II CONCERNS] While we are fully committed to our goal of ensuring openness in our regulatory process, we must balance that goal with ensuring the continued safety and secure operation of nuclear facilities in our country. Normally, when we have completed our review of an allegation, we provide the concerned individual with information as to whether their concern was substantiated and details on the actions taken by the NRC to evaluate the concern. However, due to the nature of the security-related issue(s) associated with your concern(s) and to ensure that we are not unnecessarily releasing information that would reveal any potential security-related vulnerabilities, [FOR CATEGORY I CONCERNS] we are unable to provide you with specific details regarding the NRC's evaluation of your concerns. [FOR CATEGORY II CONCERNS] we can provide only limited information regarding the NRC's evaluation of your concern(s). [FOR CATEGORY I CONCERNS] A restatement of your concerns is provided in Enclosure 1. [FOR CATEGORY II CONCERNS] Enclosure 1 to this letter restates your concern(s) and provides indication as to whether our evaluation resulted in a finding [Add the following to this sentence FOR CATEGORY II CONCERNS WHICH RESULT IN A MINOR FINDING OR VIOLATION REQUIRING COMPENSATORY ACTIONS, WHEN THE ALLEGER IS A SECURITY FORCE MEMBER AT THE FACILITY] and makes note of a discussion that [was OR is to be] held with you to discuss the NRC's actions and conclusions regarding your concern(s).

[FOR ALL LETTERS] Thank you for informing us of your concerns. We believe that our actions in this matter have been responsive. Should you have any additional questions, or if I can be of further assistance in this matter, please call me on the NRC Safety Hotline at (###).

Sincerely,

Enclosure(s): As stated

CERTIFIED MAIL (or Other Appropriate Carrier)
RETURN RECEIPT REQUESTED (NOTE: This statement should appear on the first page and the official record copy.)

FORMAT FOR ENCLOSURE TO CLOSURE LETTER TO ALLEGER FOR SECURITY-RELATED CONCERNS

RESPONSE TO CONCERNS
ALLEGATION NO. XXXX-YYYY-A-XXXX

Concern 1:

Restate the allegor's concern as provided in the acknowledgment letter, as modified by the allegor, or as clarified by the allegor (if the allegor provided clarifying information to better describe his or her concern during the course of NRC's review).

Response to Concern 1:

FOR CATEGORY III CONCERNS

[Provide a direct answer to the allegor's concern, stating what was evaluated, how it was evaluated, and providing NRC's conclusions regarding the validity of the concern. For Category III concerns involving a minor finding or violation and requiring compensatory actions, it may be indicated that corrective/compensatory actions were taken, but do not provide the specifics of the corrective/compensatory actions. It is preferable that an overall conclusion be provided indicating that the concern was substantiated, unsubstantiated, or partially substantiated, as long as that overall conclusion is well supported by the accompanying discussion regarding the evaluation of the concern. However, if providing such an overall conclusion will be confusing to the allegor (e.g., if aspects of the concern were substantiated, but the alleged impropriety or inadequacy was not found to be valid), alternate wording may be used, such as... "While NRC was able to substantiate that certain (facts/statements/conditions regarding _____) were true, NRC was unable to confirm or validate an impropriety or inadequacy associated with NRC-regulated activity."]

FOR ANY CATEGORY III CONCERN THAT INVOLVED AN RFI TO THE LICENSEE

[If an RFI was sent to the licensee, and the security concern is determined to be Category III, the documentation of allegation concern closure should reference the feedback provided by the licensee [NOTE: Do not discuss specifics of corrective/compensatory actions taken] but should also distinctly describe NRC's evaluation and conclusions regarding the concern based on all pertinent information, including the licensee's RFI response. Specifically, in addition to restating the allegor's concern, the concern response should separately describe (1) the licensee's evaluation and response (without describing corrective/compensatory actions) and (2) NRC's evaluation of the licensee's response and overall conclusions regarding the validity of the concern. The description of NRC's evaluation of the licensee's response should articulate any NRC staff independent verification, inspection, or investigative efforts conducted (do not discuss any efforts to independently verify corrective/compensatory actions) to validate aspects of the licensee's response.]

FOR CATEGORY III CONCERNS INVOLVING A MINOR FINDING OR VIOLATION AND REQUIRING COMPENSATORY ACTIONS

The safety significance of the violation of [briefly discuss identified violation] was evaluated by the NRC and found to be minor. (Licensee name) has been informed of this matter and has promptly corrected the identified deficiency/deficiencies or taken prompt compensatory action, thereby establishing licensee compliance with applicable physical protection and security

requirements). [NOTE: Do not discuss specifics of corrective/compensatory actions taken.] Minor violations represent items of low safety significance and are not subject to formal enforcement action or documentation by the NRC. Therefore, this minor finding/violation will not be documented in an inspection report, and no further regulatory action is planned.

FOR CATEGORY II CONCERNS, USE THE FOLLOWING LANGUAGE

While we cannot provide the specific details regarding our evaluation of your concern, we note that (an NRC inspection was recently conducted in the security area OR [IF THE CONCERN INVOLVED AN RFI TO THE LICENSEE] we note that NRC staff recently requested that (licensee name) evaluate this/these and other matter(s) in the security area). NRC staff reviewed the (licensee name's) response to ensure that it was of adequate scope and depth. (Based on the NRC assessment no findings were identified OR The NRC assessment resulted in at least one finding). Identified deficiencies were promptly corrected or addressed by compensatory action, thereby establishing licensee compliance with applicable physical protection and security requirements. To ensure that we do not unnecessarily release information that would reveal potential security-related vulnerabilities, we are unable to inform you if any finding is specifically associated with the concern(s) you raised.

FOR CATEGORY II CONCERNS AND III CONCERNS WHICH RESULT IN A MINOR FINDING OR VIOLATION REQUIRING COMPENSATORY ACTIONS, WHEN THE ALLEGER IS A SECURITY FORCE MEMBER AT THE FACILITY

Since you are a member of the security force and are permitted access to information related to physical security matters at (facility name), (NRC staff member name(s)) discussed with you on (date) OR scheduled a telephone conference with you and with (NRC staff member name(s)) on (date) to discuss [FOR CATEGORY III CONCERNS REQUIRING COMPENSATORY ACTIONS] the compensatory actions taken in relation to your concern(s) OR [FOR CATEGORY II CONCERNS] the NRC's actions and conclusions regarding your concern(s).

FOR CATEGORY I CONCERNS, USE THE FOLLOWING LANGUAGE

As indicated in the cover letter, normally, when we have completed our review of an allegation, we provide the concerned individual with information as to whether their concern was substantiated and details on the actions taken by the NRC to evaluate the concern. However, due to the nature of the security-related issue(s) associated with your concern(s) and to ensure that we are not unnecessarily releasing information that would reveal any potential security-related vulnerability, we are unable to provide you with specific details regarding the NRC's evaluation of your concern.

[Repeat for additional concerns]

SAMPLE CLOSURE MEMORANDUM TO FILE
(FOR ANONYMOUS ALLEGATIONS, NRC STAFF-SUSPECTED OR LICENSEE-IDENTIFIED
WRONGDOING, OR WHEN AN ALLEGER SPECIFICALLY REQUESTS NO
CORRESPONDENCE FROM NRC)

MEMORANDUM TO: Allegation File XXXX-200Y-A-XXXX or OAC
FROM: (responsible staff member or OAC)
SUBJECT: CLOSURE OF ALLEGATION XXXX-200Y-A-XXXX REGARDING
(site/facility)

USE FOR AN ANONYMOUS ALLEGATION OR NRC STAFF-SUSPECTED/LICENSEE-
IDENTIFIED WRONGDOING

On _____, the NRC received an anonymous allegation [or opened an allegation file based on an NRC staff-suspected or licensee-identified wrongdoing matter] that/regarding (subject of allegation) at (facility).

USE WHEN ALLEGER HAS SPECIFICALLY REQUESTED NO CORRESPONDENCE

On _____, the NRC received an allegation that/regarding (subject of allegation) at (facility). During the course of the staff's review, the allegor specifically requested not to receive correspondence from NRC related to this matter. [An attempt was made to re-contact the allegor to explain the advantages of continued involvement in the allegation process. However, the staff was unsuccessful in re-contacting the allegor.] OR [Although the advantages of continued involvement in the allegation process were explained to the allegor during a telephone call on _____ / in a letter dated _____, the allegor insisted that no further contact be provided by the NRC.] NRC follow up action is described in this memorandum.

USE FOR ALL CLOSURE MEMORANDUMS

An allegation review board(s) (ARB(s)) was/were convened on (date(s)). The ARB(s) concluded that (describe actions prescribed) to evaluate the allegation (or staff suspected/ licensee-identified wrongdoing matter). Enclosure 1 to this letter lists the concern(s) and describes the staff's review and conclusions regarding that/each concern.

Based on the anonymous nature of the allegation OR since the allegor specifically requested not to receive correspondence from NRC OR Since this is an NRC staff-suspected wrongdoing OR a licensee-identified wrongdoing matter, no response to the allegor is appropriate. (USE IF APPROPRIATE) Remaining NRC actions in this matter will be processed and tracked through the enforcement process.

This allegation is closed.

Enclosure(s): As stated

FORMAT FOR ENCLOSURE TO CLOSURE MEMORANDUM

Concern 1:

Describe each concern as provided or as modified by the allegor (if the allegor provided clarifying information to better describe his or her concern during the course of NRC's review).

Response to Concern 1:

(Provide a direct answer to each concern, stating what was evaluated, how it was evaluated, and providing NRC's conclusions regarding the validity of the concern. It is preferable that an overall conclusion be provided indicating that the concern was substantiated, unsubstantiated, or partially substantiated, as long as that overall conclusion is well supported by the accompanying discussion regarding the evaluation of the concern. However, if providing such an overall conclusion would be confusing (e.g., if aspects of the concern were substantiated, but the alleged impropriety or inadequacy was not found to be valid), alternate wording may be used, such as... "While NRC was able to substantiate that certain (facts/statements/conditions regarding _____) were true, NRC was unable to confirm or validate an impropriety or inadequacy associated with NRC-regulated activity." (If appropriate add: NRC findings regarding this concern are documented in (inspection report number, or other document citation) dated _____. A copy of the relevant section(s) of the report/document is/are enclosed.)

FOR ANY CONCERN THAT INVOLVED AN RFI TO THE LICENSEE

[If an RFI was sent to the licensee, the documentation of allegation concern closure should reference the feedback provided by the licensee but should also distinctly describe NRC's evaluation and conclusions regarding the concern based on all pertinent information, including the licensee's RFI response. Specifically, in addition to restating the allegor's concern, the concern response should separately describe (1) the licensee's evaluation and response and (2) NRC's evaluation of the licensee's response and overall conclusions regarding the validity of the concern. The description of NRC's evaluation of the licensee's response should articulate any NRC staff independent verification, inspection, or investigative efforts conducted to validate aspects of the licensee's response.]

[Repeat for Additional Concerns]

[See Enclosure 6, "Sample Closure Letter to Allegor (For Other than Security Concerns)," for Suggested Wording in Response to Certain Types of Concerns (e.g., if concern involved 10 CFR 2.390 information, If OI returns potential wrongdoing issue to staff without completing the investigation, if concern involves enforcement/assessment process outcomes.)]