

From:
To: <nrcprep@nrc.gov>
Date: Fri, Sep 29, 2000 11:41 AM
Subject: Discrimination Task Group

Below is the result of your feedback form. It was submitted by

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Comments: I request that the Discrimination Task Force and the NRC Staff specifically address the following questions regarding 10CFR50.7 and allegations of discrimination, from an NRC perspective, and then place a response to these questions in the PDR:

a. Is the ability of a licensee employee to file and/or pursue a DOL complaint under 10CFR50.7, without licensee impediment or interference, a 'term and condition of employment' under 10CFR50.7?

b. Does a former employee of a licensee enjoy the same protection and privileges under 10CFR50.7 with regards to terms, conditions and privileges of employment that are enjoyed by current employees of a licensee? (Note: The US Supreme Court has granted equivalent protections and privileges in Title VII cases of employment discrimination for former employees. In analogy, does the NRC similarly grant these protections and privileges to former employees in matters of employment discrimination under 10CFR50.7?).

c. Is licensee interference with an employee's or former employee's ability to file and/or pursue a DOL complaint under 10CFR50.7 (a)(3)(b) an 'adverse employment action'?

d. If licensee interference with an employee's or former employee's ability to file and/or pursue a DOL complaint under 10CFR50.7 (a)(3)(b) occurred because the employee was pursuing a DOL complaint under 10CFR50.7 (a)(3)(b), would this licensee interference be a violation of 10CFR50.7?

e. Under regulation and law, would an 'adverse employment action' under 10CFR50.7 and the ERA, that has been corrected either through chance or licensee action, prior to NRC knowledge and/or investigation of the matter, represent a violation of the law and/or regulation?

For example, assume that a licensee places a discriminatory performance appraisal in an employer's personnel file, later removes that discriminatory performance appraisal from the employee's file, and then notifies the NRC that it found and corrected an act of discrimination. In this hypothetical case, would such actions by the licensee render the original violation non-existent?

f. Does prior and continuing engagement in a DOL proceeding by a Complainant who is seeking personal remedies for alleged prior discriminatory conduct on the part of a licensee, in and of itself, preclude NRC jurisdiction in investigating a separate allegation of discriminatory conduct by the licensee against the same individual (Complainant) that occurs after the initial and original DOL proceeding has commenced?

I look forward to the Task Force's response to these questions (hopefully during the Oct 5, 2000 Lisle Meeting).

With regards to the above questions, in my opinion, the answers to the above would be:

YES...a,b,c,d,e
NO ...f

Hopefully, you can provide a little background material than I have behind your responses. Thanks.

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