

Nuclear Regulatory Commission

§4.336

(2) As part of the initial investigation, NRC will use informal fact-finding methods, including joint or separate discussions with the complainant and recipient to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. NRC may seek the assistance of any involved State program agency.

(3) NRC will put any agreement in writing and have it signed by the parties and an authorized official at NRC.

(4) The settlement shall not affect the operation of any other enforcement effort of NRC, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) Settlement of a complaint under this section will not constitute a finding of discrimination by the NRC against a recipient or an admission of discrimination by the recipient.

(b) *Formal investigation.* If NRC cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, NRC will attempt to obtain voluntary compliance. If NRC cannot obtain voluntary compliance, it will begin enforcement as described in §4.336.

§4.335 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who—

(a) Attempts to assert a right protected by the Act or these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of NRC's investigation, conciliation, and enforcement process.

§4.336 Compliance procedure.

(a) NRC may enforce the Act and these regulations through—

(1) Termination of a recipient's Federal financial assistance from NRC under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has

had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases that are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from NRC.

(2) Any other means authorized by law including but not limited to—

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipients created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) NRC will limit any termination under §4.336(a)(1) to the particular recipient and particular program or activity NRC finds in violation of Act or these regulations. NRC will not base any part of a termination on a finding with respect to any program or activity of the recipient that does not receive Federal financial assistance from NRC.

(c) NRC will take no action under paragraph (a) until—

(1) The Commission, or designee, has advised the recipient of its failure to comply with the Act or these regulations and has determined that voluntary compliance cannot be obtained.

(2) 30 days have elapsed after the Commission, or designee, has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. A report will be filed whenever any action is taken under paragraph (a) of this section.

(d) NRC also may defer granting new Federal financial assistance to a recipient when termination proceedings under §4.336(a)(1) are initiated.

(1) New Federal financial assistance includes all assistance for which NRC requires an application or approval, including renewal or continuation of existing activities or authorization of new activities, during the deferral period. New Federal financial assistance does not include increases in funding as a result of change computation of formula awards or assistance approved