

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 52, 60, 61, 63, 70, 71, 72, and 76

RIN 3150-AH59

Clarification of NRC Civil Penalty Authority over Contractors and Subcontractors Who Discriminate Against Employees for Engaging in Protected Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is amending its employee protection regulations to clarify the Commission's authority to impose a civil penalty upon a non-licensee contractor or subcontractor of a Commission licensee, or applicant for a Commission license who violates the NRC's regulations by discriminating against employees for engaging in protected activity. The NRC is also amending its employee protection regulations related to the operation of Gaseous Diffusion Plants to conform with the NRC's other employee protection regulations and to allow the NRC to impose a civil penalty on the United States Enrichment Corporation (USEC or Corporation), as well as a contractor or subcontractor of USEC.

EFFECTIVE DATE: The effective date of this final rule is (insert 30 days after publication in the *Federal Register*).

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SUPPLEMENTARY INFORMATION:

Background

The Commission's employee protection regulations in 10 CFR 30.7, 40.7, 50.7, 52.5¹, 60.9, 61.9, 63.9, 70.7, 71.9, 72.10, and 76.7 prohibit discrimination by a Commission licensee, applicant for a Commission license, a holder of or applicant for a certificate of compliance (CoC) or the Corporation, or contractor or subcontractor of these entities, against employees for engaging in certain protected activities. These regulations identify certain enforcement actions for violations of the requirements. The enforcement actions are denial, revocation, or suspension of the license or certificate; imposition of a civil penalty on the licensee or applicant; or other enforcement action. While the employee protection regulations prohibit discrimination by a contractor or subcontractor, they do not explicitly provide for imposition of a civil penalty on a contractor or subcontractor.

On January 16, 1998, the NRC issued an enforcement action against Five Star Products, Inc., and Construction Products Research, Inc., contractors to the nuclear industry, for discriminating against one of its employees. Following this enforcement action, the NRC considered modifications to the NRC's employee protection regulations that would clearly allow the NRC, within the limits of its jurisdiction, to impose civil penalties on non-licensees for discriminating against employees who have engaged in protected activities. At the time that NRC took the enforcement action against Five Star Products, Inc., and Construction Products Research, Inc., the NRC was engaged in litigation with another non-licensee, Thermal

¹This final rule amends 10 CFR 52.5(c) to conform with the other employee protection regulations regarding civil penalties to contractors and subcontractors. 10 CFR 52.5(c) was not included in the proposed rule submitted to the Commission in SECY-05-0212 because, at that time, 10 CFR Part 52 did not contain employee protection provisions. 10 CFR Part 52 has since been amended (72 FR 49352, in part, to include a new section, 10 CFR 52.5, Employee protection.

Science, Inc., that included an issue concerning the scope of the Commission's civil penalty authority over non-licensees. Consequently, the NRC deferred modifying the NRC's employee protection regulations pending resolution of action in Thermal Science, Inc., v. NRC (Case No. 4:96CV02281-CAS). That case was subsequently settled.

On April 14, 2000, the NRC Executive Director for Operations (EDO) approved the establishment of a Discrimination Task Group (DTG) to, among other things, evaluate the NRC's handling of matters covered by its employee protection regulations. During this review, the DTG held 12 public meetings and provided the public with an opportunity to comment on its draft report. Among other recommendations, the DTG recommended in its report, "Policy Options and Recommendations for Revising the NRC's Process for Handling Discrimination Issues," dated April 2002, that rulemaking be initiated to allow the NRC to impose civil penalties on contractors working for NRC licensees. The DTG received public comments both in favor of, and opposed to, the recommendation that NRC conduct a rulemaking to allow the imposition of civil penalties against contractors for violating the NRC's employee protection requirements.

The DTG's report was forwarded to the Commission as an attachment to SECY-02-0166, "Policy Options and Recommendations for Revising the NRC's Process for Handling Discrimination Issues," dated September 12, 2002. On March 26, 2003, the Commission issued a Staff Requirements Memorandum (SRM) on SECY-02-0166, approving the recommendations of the DTG as revised by the Senior Management Review Team, subject to certain comments. The Senior Management Review Team was appointed by the EDO to review the final recommendations of the DTG and provide any additional perspectives that could enhance the potential options. The Commission approved, without comment, the DTG rulemaking recommendation regarding civil penalties against contractors.

The NRC staff submitted a proposed rule to amend the employee protection regulations to exercise NRC's authority to impose civil penalties against contractors and subcontractors to

the Commission on November 17, 2005 (SECY-05-0212). In SRM-SECY-05-0212, dated December 21, 2005, the Commission approved the staff's recommendation to publish the proposed rule, with certain changes directed by the Commission. The proposed rule was published in the *Federal Register* on January 31, 2006 (71 FR 5015). Public comment was requested on the proposed amendments as well as on the draft environmental assessment and regulatory analysis that had been prepared on the proposed rule. The final rule does not differ from the recommendations in the proposed rule.

Discussion

The amendments allow the Commission to impose civil penalties on contractors or subcontractors for violations of Commission employee protection requirements. The rule represents a significant change in Commission policy in that, currently, a licensee can receive a civil penalty for the discriminatory activities of its contractor or subcontractor, while the contractor or subcontractor is not subject to civil penalty enforcement action. The amendments clarify the NRC's authority to impose a civil penalty directly on contractors or subcontractors who violate the NRC's employee protection regulations. This authority derives from Section 234 of the Atomic Energy Act, which provides that the Commission may impose civil penalties on any person who violates any rule, regulation, or order issued under any of the enumerated provisions of the Act, or any term, condition, or limitation of any license or certification issued under the Act, or who commits a violation for which a license may be revoked. Section 11s of the Atomic Energy Act broadly defines the term "person" to include any individual, corporation, partnership, firm, association, trust, estate, public or private institution group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any

political subdivision of any such government or nation, or other entity; and any legal successor, representative, agent, or agency of the foregoing.

In 1991, the Commission amended its regulations to allow it to take enforcement action against unlicensed persons for deliberate misconduct (56 FR 40664; August 15, 1991). In so doing, the Commission emphasized that “any person” as defined in the Atomic Energy Act necessarily encompasses non-licensees, in order to effectuate the purposes of the Act as it applies to licensees. In that rulemaking, the Commission also noted that it may be able to exercise its Section 234 authority to impose civil penalties on unlicensed persons who deliberately cause a licensee to be in violation of requirements.

In 1998, the NRC issued a Severity Level I Notice of Violation without a civil penalty to Five Star Products, Inc. and Construction Products Research, Inc. in response to their discrimination against a former employee who raised safety concerns. Five Star Products, Inc. and Construction Products Research, Inc. were not licensees, but supplied safety-related basic components and services associated with those basic components to the nuclear industry at the time of the discrimination.²

It is important that contractors and subcontractors abide by the Commission’s employee protection regulations to effectuate the purposes of the Act because the activities of contractors and subcontractors can clearly affect the safe operation of a licensee’s facility. These amendments allow the Commission to impose civil penalties on any non-licensee employer that discriminates against an employee for engaging in protected activity, if that employer is a contractor or subcontractor of a licensee or the Corporation at the time that the employee engaged in the protected activity that resulted in discrimination. These amendments will serve

²In an earlier case, CLI-93-23, 38 NRC 169, 178-84 (1993), the Commission held that Five Star Products is a “contractor” and Construction Products Research, Inc., is a “subcontractor” within the meaning of Section 211 of the Energy Reorganization Act of 1974, as amended, and 10 CFR 50.7.

the dual objectives of deterring contractors and subcontractors from violating NRC's employee protection regulations and allowing employees to raise regulatory and safety concerns without fear of retaliation. Both of these objectives are critical to the nuclear industry's ability to carry out licensed activities safely.

However, the Commission emphasizes that the amendments do not affect its ability to impose civil penalties against licensees or applicants for discrimination, nor do they diminish the focus on licensee responsibility in the investigative and enforcement process. The Commission has long held licensees to be responsible for maintaining control and oversight of contractor and subcontractor activities. The modifications to the employee protection regulations do not indicate a change in Commission policy in this regard, nor do they diminish the ability of the NRC to impose civil penalties against licensees. There may be instances when the Commission may wish to issue civil penalties to the responsible contractor or subcontractor, or both, and the licensee. The Commission is maintaining its policy of emphasizing licensee responsibilities for the actions of their contractors and subcontractors. The Commission believes that these amendments are necessary and will offer additional enhancements to the regulatory process by allowing the Commission to exercise its authority to impose a significant enforcement action (i.e., civil penalty) directly on contractors or subcontractors who violate the NRC's employee protection regulations.

The NRC is not amending 10 CFR 71.9 and 72.10 to provide for imposing a civil penalty against a holder or applicant for a CoC, or contractor or subcontractor of a holder or applicant for a CoC. However, if a holder of, or applicant for, a CoC is also a contractor or subcontractor of a licensee or applicant for a license, then a civil penalty could be imposed on the holder of, or applicant for, a CoC in its capacity as a contractor or subcontractor.

In addition, in drafting the proposed rule, the NRC identified that 10 CFR 76.7 does not specify the availability of civil penalties as an enforcement action. The Supplementary

Information that accompanied the promulgation of 10 CFR 76.7 does not indicate that this omission was intentional.³ Therefore, the NRC is amending 10 CFR 76.7 to bring it into conformance with the provisions of the other NRC's employee protection regulations by providing that the Commission may impose a civil penalty on the Corporation or a contractor or subcontractor of the Corporation.

The NRC has also revised the authority citations to correctly reflect current statutory authority.

Comment Analysis

The period for submitting comments on the proposed rule, draft environmental assessment, or regulatory analysis expired on April 17, 2006. The NRC received an email from a private citizen and one letter from Project on Government Oversight (POGO). In general, the comments were supportive of the proposed rule. A summary of the issues raised by the commenters, followed by the NRC's responses to the comments, is provided below.

Comment summary. A commenter stated that it should be a rare exception and require Commission consultation before the NRC staff issues an enforcement action against a contractor without taking some enforcement action against the licensee. The commenter added that the Statement of Considerations in the final rulemaking should include a statement that consultation with the Commission will be required if the NRC staff issues enforcement action against a contractor without taking enforcement action against the licensee.

Response. The NRC disagrees with the recommendation that the Statement of Considerations for this final rule should include a statement that the Commission must be

³The Supplementary Information states that Part 76 is based upon comparable requirements; in particular, 10 CFR Part 70, as modified for the certification process. There is no indication that the omission of civil penalties was intended as such a modification (59 FR 48944; September 23, 1994).

consulted if the staff takes enforcement action against a contractor without taking some enforcement action against the licensee. The NRC position is that the circumstances surrounding each case of discrimination should be evaluated on a case-by-case basis, using the guidance in the Enforcement Policy and NRC Enforcement Manual, and that Commission consultation is not necessary. The reasons for not taking enforcement action against the licensee will be documented in correspondence to the licensee.

The NRC agrees that enforcement action will generally continue to be taken against a licensee for the discriminatory actions of its contractors or subcontractors. As previously stated, the modifications to the employee protection regulations do not affect the Commission's ability to impose civil penalties against licensees or applicants for discrimination, nor do they diminish the focus on licensee responsibility in the investigative and enforcement process. As further stated, the Commission has long held licensees to be responsible for maintaining control and oversight of contractor and subcontractor activities. The modifications to the employee protection regulations do not indicate a change in Commission policy in this regard or diminish the ability of the NRC to impose civil penalties against licensees.

Comment summary. One commenter stated that the proposed rule should apply to all licensees, applicants, contractors and subcontractors, including a holder or applicant for a Certificate of Compliance (CoC) under 10 CFR 71.9 and 72.10.

Response. The NRC is not amending 10 CFR 71.9 or 72.10 in this rulemaking to provide for imposing a civil penalty against a holder or applicant for a CoC. However, the Commission, in SRM-SECY-05-0212, "Proposed Rulemaking - Clarification of the NRC Civil Penalty Authority Over Contractors and Subcontractors Who Discriminate Against Employees for Engaging in Protected Activities," directed the NRC staff (although as a low priority) to draft appropriate legislative language to be provided in any future legislative request to Congress for the extension of this rulemaking to cover those excluded certificate holders.

Comment summary. One commenter recommended that the proposed amendments to 10 CFR 30.7, 40.7, 61.9, 70.7, and 71.9 be categorized at the Agreement State Compatibility Category C designation (meets the essential objectives of NRC employee protection requirements) instead of as Agreement State Compatibility Category D (does not need to be adopted by Agreement States), as was proposed. In addition, this comment stated that the NRC should issue a policy statement to Agreement States detailing the obligations under Category C.

Response. The Commission in SRM-SECY-99-002, dated March 12, 1999, disapproved the staff's plans to designate 10 CFR 19.20, 30.7, 40.7, 61.9, and 70.7 as compatibility Category C for Agreement States. However, the Commission provided direction to the staff that its decision could be revisited if the staff believed at some time in the future that there was a regulatory performance gap that put Agreement State licensee employees at a higher risk than NRC licensee employees as a result of the present compatibility category. The NRC staff is currently reevaluating, under an initiative separate from this rulemaking, the effects of the Category D designation on Agreement State employees. Upon completion of that evaluation, the staff will determine whether additional actions are necessary regarding Agreement State employee protection compatibility categories. That evaluation and any subsequent staff recommendations to the Commission regarding compatibility categories are separate from this rulemaking and will not be included in this rulemaking. Therefore, the current compatibility Category D designation has not been changed in this final rule.

Section-by-Section Analysis of Substantive Changes

Sections 30.7, 40.7, 50.7, 52.5, 60.9, 61.9, 63.9, and 70.7, are amended to provide that, in addition to imposing a civil penalty against a Commission licensee or applicant for a Commission license, the Commission may impose a civil penalty against a contractor or

subcontractor of either of these entities for discriminating against an employee for engaging in protected activity.

Section 71.9 is amended to provide that, in addition to imposing a civil penalty against a Commission licensee, or applicant, the Commission may impose a civil penalty against a contractor or subcontractor of these entities for discriminating against an employee for engaging in protected activity.

Section 72.10 is amended to provide that, in addition to imposing a civil penalty against a Commission licensee or applicant, the Commission may impose a civil penalty against a contractor or subcontractor of the licensee, or applicant.

Section 76.7 is amended to provide that the Commission may impose a civil penalty on the Corporation or contractor or subcontractor of the Corporation.

Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" which became effective on September 3, 1997 (62 FR 46517), NRC program elements (including regulations) are placed into Compatibility Categories A, B, C, D, NRC or category Health and Safety (H&S). Category A includes program elements that are basic radiation protection standards or related definitions, signs, labels or terms necessary for a common understanding of radiation protection principles and should be essentially identical to those of the NRC. Category B includes program elements that have significant direct transboundary implications and should be essentially identical to those of the NRC. Compatibility Category C are those program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. Compatibility Category D are those program

elements that do not meet any of the criteria of Category A, B, or C, and do not need to be adopted by Agreement States. Compatibility Category NRC are those program elements that address areas of regulation that cannot be relinquished to Agreement States under the Atomic Energy Act, as amended, or provisions of Title 10 of the Code of Federal Regulations and cannot be adopted by Agreement States. Category H&S are program elements that are not required for compatibility, but have a particular health and safety role in the regulation of agreement material and the State and should contain the essential objectives of the NRC program elements.

The revisions to 10 CFR 50.7, 52.5, 60.9, 63.9, 72.10, and 76.7 are not relevant to Agreement State programs because these NRC regulations address areas of exclusive NRC authority and are designated a Compatibility Category NRC. The revisions to 10 CFR 30.7, 40.7, 61.9, 70.7, and 71.9 are categorized as Compatibility Category D, and therefore do not need to be adopted by Agreement States.

Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following methods as indicated.

Public Document Room (PDR). The NRC PDR is located at 11555 Rockville Pike, Rockville, Maryland.

Rulemaking Web site (Web). The NRC's interactive rulemaking web site is located at <http://ruleforum.llnl.gov>. These documents may be viewed and downloaded electronically via this Web site.

NRC's Agencywide Document Access and Management System (ADAMS). The NRC's PARS Library is located at <http://www.nrc.gov/readingrm/adams.html>.

Document	PDR	Web	ADAMS
Public Comment	X	X	ML060800443
56 FR 40664	X	X	Not Applicable
Public Comment	X	X	ML060880346
Final Rule--Regulatory Analysis	X	X	ML063110473
Final Rule--Environmental Analysis	X	X	ML063110454
Enforcement Policy Revision	X	X	ML063110480
SECY-02-0166	X	X	ML022120479
SRM-SECY-02-0166	X	X	ML030850783
Proposed Rule FRN	X	X	ML060120312
SECY-05-0212	X	X	ML052910161
SRM-SECY-05-0212	X	X	ML053570177
SRM-SECY-99-002	X	X	ML003751577

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. In this final rule, the NRC is amending its regulations to enable the Commission to impose civil penalties upon non-licensee contractors and subcontractors who discriminate against employees for engaging in certain protected activities. This action does not constitute the establishment of a standard that contains generally applicable requirements.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, Public Law 97-190 (42 U.S.C. 4321 et seq.), as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, is not a major Federal action significantly affecting the quality of the human environment; and, therefore, an environmental impact statement is not required. The basis for this determination is that this rulemaking will not significantly increase the probability or consequences of accidents, no changes will be made in the types of effluents that may be released offsite, there will be no significant increase in public radiation exposure, nor will there be a direct nor reasonably foreseeable indirect effect on the water, land, or air.

The NRC requested the views of the States on the environmental assessment (EA). The EA, upon which the Commission's finding of no significant impact is based, is available for examination and copying at the NRC PDR, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. No comments were received on the EA. Single copies of the analysis may be obtained from the Office of Enforcement, U.S. Nuclear Regulatory Commission, at 301-415-3456 or by email at drs@nrc.gov.

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0017, 3150-0020, 3150-0011, 3150-0127, 3150-0135, 3150-0199, 3150-0009, 3150-0008, 3150-0132 and 3150-0151.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examined the costs and benefits of the alternatives considered by the Commission. No comments were received on the regulatory analysis. The regulatory analysis is available for inspection in the NRC's PDR , 11555 Rockville Pike, Rockville, MD 20852. Single copies of the analysis may be obtained from the Office of Enforcement, U.S. Nuclear Regulatory Commission, at 301-415-3456 or by email at drs@nrc.gov.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities based on the definition of "small entities" set forth in the Regulatory Flexibility Act or the Size Standards established by the Nuclear Regulatory Commission (10 CFR 2.810). The provisions only impact contractors or subcontractors of licensees or applicants who violate the NRC's regulations by discriminating against employees who engage in protected activities.

Backfit Analysis

The Commission has determined that the backfit rule is not required for this final rule because these amendments do not include any provisions that would require backfits as defined in 10 CFR Chapter I.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 63

Criminal penalties, High-level waste, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 76

Certification, Criminal penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Special nuclear material, Uranium enrichment by gaseous diffusion.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR Parts 30, 40, 50, 52, 60, 61, 63, 70, 71, 72, and 76.

PART 30 - RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 30.7 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 30.7, paragraph (c)(2) is revised to read as follows:

§ 30.7 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

PART 40 - DOMESTIC LICENSING OF SOURCE MATERIAL

3. The authority citation for part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 40.7 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

4. In § 40.7, paragraph (c)(2) is revised to read as follows:

§ 40.7 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. The authority citation for part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 50.7 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91- 190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80- 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

6. In § 50.7, paragraph (c)(2) is revised to read as follows:

§ 50.7 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

PART 52 - EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED
LICENSES FOR NUCLEAR POWER PLANTS

7. The authority citation for part 52 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

8. In § 52.5, paragraph (c)(3) is revised to read as follows:

§ 52.5 Employee protection.

(c) ***

(3) Imposition of a civil penalty on the licensee, holder of a standard design approval, or applicant (including an applicant for a standard design certification under this part following Commission adoption of final design certification rule) or a contractor or subcontractor of the licensee, holder of a standard design approval, or applicant.

PART 60 - DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

9. The authority citation for part 60 is revised to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95- 601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97-425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 60.9 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

10. In § 60.9, paragraph (c)(2) is revised to read as follows:

§ 60.9 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

PART 61 - LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

11. The authority citation for part 61 is a revised to as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102-486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 61.9 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

12. In § 61.9, paragraph (c)(2) is revised to read as follows:

§ 61.9 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

PART 63 - DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

13. The authority citation for part 63 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97-425, 96 Stat. 2213g, 2238, as amended (42 U.S.C. 10134,

10141), and Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

14. In § 63.9, paragraph (c)(2) is revised to read as follows:

§ 63.9 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant; or

PART 70 - DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

15. The authority citation for part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also

issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

16. In § 70.7, paragraph (c)(2) is revised to read as follows:

§ 70.7 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

PART 71 - PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

17. The authority citation for part 71 is revised to read follows:

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2297f); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 71.9 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

Section 71.97 also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789-790.

18. In § 71.9, paragraph (c)(2) is revised to read as follows:

§ 71.9 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant; or

PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

19. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended; 202, 206, 88 Stat. 1242, as amended; 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102-485, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241; sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts

K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

20. In § 72.10, paragraph (c)(2) is revised to read as follows:

§ 72.10 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the licensee, applicant, or a contractor or subcontractor of the licensee or applicant.

PART 76 - CERTIFICATION OF GASEOUS DIFFUSION PLANTS

21. The authority citation for part 76 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, secs. 1312, 1701, as amended, 106 Stat. 2932, 2951, 2952, 2953, 110 Stat. 1321-349 (42 U.S.C. 2201, 2297b-11, 2297f); secs. 201, as amended, 204, 206, 88 Stat. 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 234(a), 83 Stat. 444, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243(a)); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 76.7 is also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 76.22 is also issued under sec.193(f), as amended, 104 Stat. 2835, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243(f)). Section 76.35(j) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

22. Section 76.7 is amended by revising paragraph (c)(2) and adding a new paragraph (c)(3) to read as follows:

§ 76.7 Employee protection.

(c) ***

(2) Imposition of a civil penalty on the Corporation or a contractor or subcontractor of the Corporation.

(3) Other enforcement action.

Dated at Rockville, Maryland, this day of , 2007.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.