

the minimum Class I use percentage to qualify as a pool plant. As a consequence of the above recent changes in marketing conditions in the Middle Atlantic area, Johanna and its affiliates apparently are experiencing the same difficulty as the cooperative handlers in associating all of their diverted producer milk with the remaining distributing plants now regulated under the Middle Atlantic order without affecting the pool status of the milk.

A comment supporting the proposed suspension was filed by Dairyland Cooperative, Inc., on the basis that the suspension would assure that uneconomic and inefficient movements of milk would not be required to maintain the pool status of the milk of producers historically associated with the market.

The suspension is found to be necessary for the purpose of assuring that producers' milk will not have to be moved in an uneconomic and inefficient manner to assure that producers whose milk has long been associated with the Middle Atlantic marketing area will continue to benefit from pooling and pricing under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such action is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment supporting the suspension was received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the Federal Register.

List of Subjects in 7 CFR Part 1004

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions in Title 7 part 1004 are suspended as follows:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. The authority citation for 7 CFR Part 1004 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1004.12 [Temporarily suspended in part]

2. In § 1004.12(d)(2), the words "or (ii)" are suspended.

3. In § 1004.12(d)(2)(i), the words "of members of a cooperative association or a federation of cooperative associations to nonpool plants are for the account of such cooperative association or federation, and the amount of member milk" are suspended, and the words "of all members of such cooperative association or federation" are suspended.

4. Section 1004.12(d)(2)(ii) is suspended.

Dated: October 4, 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–24756 Filed 10–7–93; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1004

[DA–93–23]

Milk in the Middle Atlantic Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action relaxes for the months of September 1993 through February 1994 the limit on the period of automatic pool plant status for supply plants and reserve processing plants.

The suspension was requested by a federation of cooperative associations representing approximately 90 percent of the market's producer milk. The action is necessary to assure that producer milk which has been historically associated with the market will continue to be pooled under the order without incurring unnecessary and uneconomic movements of milk for the purpose of maintaining pool status.

EFFECTIVE DATES: September 1, 1993 through February 28, 1994.

FOR FURTHER INFORMATION CONTACT:

Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 9, 1993; published August 17, 1993 (58 FR 43572).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria in Executive Order 12291, and has been determined to be a "non-major" rule.

This suspension of rules has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This action will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law and requesting a modification of an order or an exemption from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and of the order regulating the handling of milk in the Middle Atlantic marketing area.

Notice of proposed rulemaking was published in the Federal Register on August 17, 1993 (58 FR 43572) concerning a proposed suspension of certain provisions of the order.

Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments regarding the proposed suspension were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of September 1993 through February 1994 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1004.7(e), the word "immediately" and the words "for each of the following months of March through August".

Statement of Consideration

For the months of September 1993 through February 1994, this action suspends provisions of the Middle Atlantic milk order for the purpose of relaxing the limit on the period of automatic pool plant status for supply plants and reserve processing plants.

The suspension was requested by Pennmarva Dairymen's Federation, a federation of cooperative associations representing approximately 90 percent of the market's producer milk.

According to Pennmarva, a decline in the percentage of the Middle Atlantic market's producer milk used in Class I and a reduction in products processed at pool distributing plants have made maintaining pool status difficult for producers whose milk historically has been associated with the market.

Two large Order 4 distributing plants with which large volumes of Order 4 diverted milk had been associated recently became regulated under the New York-New Jersey order (Order 2). Under Order 4, diverted milk is included in the receipts of the plant from which the milk is diverted in determining whether such plant meets the minimum Class I use percentage to qualify as a pool plant. This action is necessary to ensure that producers whose milk has been displaced from the plants that have shifted their regulatory status to Order 2 maintain association with the Middle Atlantic marketing order, thus eliminating unnecessary and uneconomical movements of milk to maintain pool status for the purpose of benefiting from pooling and pricing under the order.

No comments supporting or opposing the proposed suspension were filed by interested persons.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and

to assure orderly marketing conditions in the marketing area, in that such action is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the Federal Register.

List of Subjects in 7 CFR Part 1004

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions in Title 7 part 1004 are suspended as follows:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. The authority citation for 7 CFR part 1004 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1004.7 [Temporarily suspended in part]

2. In § 1004.7(e), the word "immediately" and the words "for each of the following months of March through August" are suspended.

Dated: October 4, 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93-24757 Filed 10-7-93; 8:45 am]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19, 30, 40, 50, 60, 61, 70, 72, and 150

RIN 3150-AE50

Whistleblower Protection for Employees of NRC-Licensed Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations regarding the protection of employees who provide information to the NRC or their employers concerning

safety issues. The amendments are intended to conform current NRC regulations to the new nuclear whistleblower protection provisions of the Energy Policy Act of 1992, which was enacted on October 24, 1992.

EFFECTIVE DATE: October 8, 1993.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-504-2741.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Summary of Proposed Rule
- III. Public Comments and the Commission's Response
- IV. Environmental Impact: Categorical Exclusion
- V. Paperwork Reduction Act Statement
- VI. Regulatory Analysis
- VII. Regulatory Flexibility Certification
- VIII. Backfit Analysis

I. Background

On October 24, 1992, the President signed into law the Energy Policy Act of 1992. Section 2902, "Employee Protection for Nuclear Whistleblowers," includes provisions amending Section 210 of the Energy Reorganization Act (ERA) of 1974, as amended. The changes pertinent to this rulemaking include the following:

(1) Because the ERA contained two sections 210, the legislation renumbered the whistleblower protection provisions as section 211.

(2) The new legislation extends the period in which a whistleblower complaint may be filed with the Department of Labor (DOL) from 30 days to 180 days.

(3) The new legislation extends and/or clarifies protection to new classes of employees and employers to include: (a) Employees who bring or are about to bring concerns directly to their employers; (b) employees who have "refused to engage in" an unlawful practice, provided that the employee has identified the illegality to the employer; (c) employees who have testified, or are about to testify, before Congress or in any Federal or State proceeding regarding any provision (or proposed provision) of the ERA or the Atomic Energy Act (AEA).

As a result of these legislative changes, the NRC concluded that its regulations in 10 CFR parts 19, 30, 40, 50, 60, 61, 70, 72, and 150 should be updated to conform to the new legislation. Accordingly, on June 15, 1993 (58 FR 33042), the Commission published in the Federal Register proposed changes to these Parts to reflect the changes in the whistleblower

protection provisions brought about by the Energy Policy Act of 1992.

II. Summary of Proposed Rules

Currently, 10 CFR 19.11(c) requires that the June 1982 version or later revision of the NRC Form 3, "Notice to Employees," be posted. This section is being changed to ensure that the most recent version of NRC Form 3 is posted. The language is modified so that the date of publication for NRC Form 3 is inserted in the revision to 10 CFR part 19. In the future, if NRC Form 3 is changed, 10 CFR part 19 will also be changed. With this rulemaking, 10 CFR part 19 is revised to specify NRC Form 3 (6/93). The revised NRC Form 3, in addition to addressing the 180-day time period that employees have to file a complaint with the Department of Labor, describes protection for employees who: (1) Bring safety complaints to their employers; (2) refuse to engage in an unlawful practice, provided that the employee has identified the illegality to the employer; and (3) have testified or are about to testify before Congress or in any Federal or State proceeding regarding any provision (or proposed provision) of the ERA or the AEA. The June 1993 version of Form 3 was distributed in July 1993. Additional copies are available as specified in 10 CFR 19.11. In addition, 10 CFR parts 30, 40 and 70 are modified to require posting of NRC Form 3 by general licensees subject to 10 CFR part 19.

Section 211 requires that the provisions of that section be posted. The Department of Labor (DOL) is implementing procedures to require all employers to post the provisions of section 211. Accordingly, given that the DOL action will require posting by a class of employers that includes all NRC licensees, the NRC is not separately requiring the posting of the provisions. However, NRC licensees will be subject to the DOL rule implementing the posting provision of section 211 and will also be required by this rule to post NRC Form 3 which summarizes protected activities, defines discrimination, and explains how to file a complaint with the DOL.

In 10 CFR 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, 72.10, and 150.20, the following changes were proposed to reflect the new legislation:

(1) The applicable section 210 is renumbered as section 211.

(2) The definition of protected activities is modified to reflect the provisions of the Energy Policy Act of 1992.

(3) The period in which a complaint can be filed with DOL is changed from 30 days to 180 days.

(4) References in certain sections of the regulations to "compensation, terms, conditions, and privileges of employment" are being changed to "compensation, terms, conditions, or privileges of employment." This change is necessary to correct earlier language to conform to the language in the ERA of 1974, as amended.

(5) The exemption in §§ 30.7, 40.7, and 70.7, formally exempting general licensees from the requirement to post NRC Form 3, is being deleted because some general licensees are subject to part 19.

(6) The part 150 NRC general license, recognizing Agreement State licensees, would be amended to conform to the changes to §§ 30.7, 40.7, and 70.7.

(6) Each applicable regulation would be amended to provide that licensees and applicants are expected to notify their contractors of the prohibition against discrimination for engaging in protected activities.

As provided in 10 CFR 30.7(c), 40.7(c), 50.7(c), 60.9(c), 61.9(c), 70.7(c), and 72.10(c) of these regulations, licensees and applicants may be subject to enforcement action for discrimination caused by their contractors or subcontractors.

III. Public Comments and the Commission's Response

The June 15, 1993 proposed rule resulted in the receipt of comments from the Nuclear Management and Resources Council (NUMARC), the International Union, United Plant Guard Workers of America (UPGWA), and the law firm of Winston & Strawn who commented on behalf of four nuclear utilities. (Copies of the three comment letters are available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level) Washington, DC).

Two of the comments were similar in nature. NUMARC commented that the NRC's rule changes appear to meet the Commission's intent to conform the regulations to the new statutory requirements. The UPGWA indicated that it enthusiastically supports the rule changes and hopes that the rules will be vigorously and strictly enforced. Both commenters were generally supportive of the proposed rule and provided no comments on specific provisions.

On the other hand, Winston & Strawn, while recognizing that most of the proposed changes are required by the Energy Policy Act of 1992, focused on the proposal in 10 CFR 50.7(e) and the related enforcement provision in

§ 50.7(c). In particular, the proposed rulemaking would add a subsection in each applicable section, e.g. 50.7(e)(2), that stated NRC's expectation that all licensees will notify their contractors of the prohibition against discrimination for engaging in protected activities. Winston & Strawn commented that there is no need for this provision since, in its view, the existing regulatory framework provides ample incentives for licensees to notify their contractors of the prohibitions on discrimination. Winston & Strawn's basic concern, however, is that these proposed subsections do not specify in any detail the licensee's contractor notification requirements and yet the NRC may seek to take enforcement action against a licensee for violations of the notification provision.

It should be noted that the NRC continues to find instances of contractor discrimination which indicate that there is a continuing need for licensees to work with their contractors to eliminate discrimination. A basic need in this area is for contractors to be fully apprised of their responsibilities and the prohibition on discrimination. The intent of these subsections was to prompt licensees to take whatever actions they believe to be necessary to ensure that their contractors are informed of the prohibitions against discrimination, not to impose rigid or prescriptive requirements as to how, when or how often licensees are to notify their contractors of the prohibitions.

The proposed notification requirement was not expressed in mandatory language, rather the language used provided NRC's expectation. This may make enforcement difficult. Therefore, rather than embark on a new rulemaking at this time to provide more specificity, the language will be deleted. However, the NRC continues to believe that it is in the interest of the public health and safety that each licensee take sufficient steps to assure that its contractors are aware of the prohibitions against discrimination. The need for rulemaking on this notification matter may be revisited following the completion of the staff's report to the Commission on its reassessment of the NRC program for protecting alleged against retaliation. 58 FR 41108 (August 2, 1993). The NRC emphasizes, however, regardless of whether a notification provision is specified in the regulations, licensees will be subject to enforcement actions for discrimination caused by their contractors.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for the final rule.

V. Paperwork Reduction Act Statement

The final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0044, -0017, -0020, -0011, -0127, -0135, -0009, -0132, and 0032.

VI. Regulatory Analysis

The Commission finds that there is no alternative to amending the regulations because most of the amendments are statutorily mandated as required by the Energy Policy Act of 1992. The final rule is intended to conform the Commission's regulations to the nuclear whistleblower provisions of the Energy Policy Act of 1992. The final rule extends and clarifies protection to new classes of employees and employers and extends the period in which an employee may file a whistleblower complaint. The foregoing constitutes the regulatory analysis for the final rule.

VII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (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. The final rule conforms the Commission's regulations to the nuclear whistleblower provisions of the Energy Policy Act of 1992.

VIII. Backfit Analysis

The Nuclear Regulatory Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to the final rule and that a backfit analysis is not required for the final rule because these amendments are required by law and/or do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 19—Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

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 60—Criminal penalties, High-level waste, Nuclear power plants and reactors, Nuclear materials, 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 70—Criminal penalties, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packing and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72—Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 150—Criminal penalties, Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

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 553, the NRC is adopting the following amendments to 10 CFR parts 19, 30, 40, 50, 60, 61, 70, 72, and 150.

PART 19—NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

1. The authority citation for part 19 is revised to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948,

955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). 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).

2. In § 19.11, paragraph (c) is revised to read as follows:

§ 19.11 Posting of notices to workers.

(c) Each licensee and each applicant for a specific license shall prominently post NRC Form 3, (Revision dated June 1993), "Notice to Employees."

Note: Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

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

3. The authority citation for part 30 is revised 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).

Section 30.7 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).

4. Section 30.7 is revised to read as follows:

§ 30.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged

violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraphs (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e)(1) Each specific licensee, each applicant for a specific license, and each general licensee subject to part 19 shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c).

(2) The posting of NRC Form 3 must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note: Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. 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).

Section 40.7 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).

6. Section 40.7 is revised to read as follows:

§ 40.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination

prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraphs (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e)(1) Each specific licensee, each applicant for a specific license, and each general licensee subject to part 19 shall prominently post the revision of NRC Form 3, "Notice to Employees", referenced in 10 CFR 19.11(c).

(2) The posting of NRC Form 3 must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note: Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

7. 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. 1244, 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).

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. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 82 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).

8. Section 50.7 is revised to read as follows:

§ 50.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor

of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee

may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e) Each licensee and each applicant for a license shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note: Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential

violations or other matters within NRC's regulatory responsibilities.

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. 2213(g), 2228, as amended (42 U.S.C. 10134, 10141) and Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

10. Section 60.9 is revised to read as follows:

§ 60.9 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e) Each licensee and each applicant for a license shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not

later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note: Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to Part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

11. The authority citation for part 61 is revised to read 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).

12. Section 61.9 is revised to read as follows:

§ 61.9 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of the section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e) Each licensee and each applicant for a license shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

Note: Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

13. 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, secs. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); Secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246, (42 U.S.C. 5841, 5842, 5845, 5846).

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 also issued under Pub. L. 5-601, 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 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

14. Section 70.7 is revised to read as follows:

§ 70.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraphs (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e)(1) Each specific licensee, each applicant for a specific license, and each general licensee subject to part 19 shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c).

(2) The posting of NRC Form 3 must be at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term

of the license, and for 30 days following license termination.

Note: Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

15. The authority citation for part 72 is revised 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. 102-486, sec. 2902, 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).

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(b), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 96 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

16. Section 72.10 is revised to read as follows:

§ 72.10 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of

this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraphs (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license.

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(e)(1) Each licensee and each applicant for a license shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter or by contacting the NRC Information and Records Management Branch (telephone no. 301-492-8138).

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as

amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

18. The authority citation for part 150 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

19. In § 150.20, the introductory text of paragraph (b) is revised to read as follows:

§ 150.20 Recognition of Agreement State licenses.

(b) Notwithstanding any provision to the contrary in any specific license issued by an Agreement State to a person engaging in activities in a non-Agreement State or in offshore waters under the general licenses provided in this section, the general licenses provided in this section are subject to the provisions of §§ 30.7(a) through (f), 30.9, 30.10, 30.14(d), 30.34, 30.41, 30.51 to 30.63, inclusive, of part 30 of this chapter; §§ 40.7(a) through (f), 40.9, 40.10, 40.41, 40.51, 40.61, 40.63 inclusive, 40.71 and 40.81 of part 40 of this chapter; §§ 70.7(a) through (f), 70.9, 70.10, 70.32, 70.42, 70.51 to 70.56, inclusive, 70.60 to 70.62, inclusive, and to the provisions of 10 CFR parts 19, 20 and 71 and subpart B of part 34, §§ 39.15 and 39.31 through 39.77, inclusive, of part 39 of this chapter. In addition, any person engaging in activities in non-Agreement States or in offshore waters under the general licenses provided in this section:

Dated at Rockville, Maryland this 24th day of September, 1993.

For the Nuclear Regulatory Commission.
James M. Taylor,
Executive Director for Operations.
[FR Doc. 93-24787 Filed 10-7-93; 8:45 am]
BILLING CODE 7590-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Environmental Services

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: On January 13, 1993, the Small Business Administration (SBA) published an interim final rule which established a small business size standard of \$18 million for environmental services, an activity designated by the SBA under Standard Industrial Classification code 8744, Facilities Support Management Services (58 FR 4074). This final rule withdraws that size standard. This action is being taken in order to comply with a court decision, dated June 23, 1993, which judicially vacated the environmental services size standard.

DATES: Effective October 8, 1993.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Director, Size Standards Staff, at (202) 205-6618.

SUPPLEMENTARY INFORMATION: On January 13, 1993, the SBA published an interim final rule in the *Federal Register*, 58 FR 4074, that established a size standard of \$18 million in average annual receipts for environmental services. As discussed in the interim rule, SBA believed environmental services to be an emerging industry which the current SIC System and its corresponding size standards did not adequately address. In response to this situation, the SBA promulgated the environmental services size standard rule on an interim final basis, without opportunity for prior public comment, pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (b)(3). SBA sought public comment on the rule as it recognized the desirability of input from the public prior to the Agency's final decision on establishing this size standard.

SBA is hereby withdrawing that interim final rule. This action is being taken as a result of a court decision that judicially vacated the environmental services size standard. As explained in a notice published in the *Federal Register* on August 9, 1993 (58 FR 42355), the United States District Court for the District of Columbia on June 23, 1993 held that the SBA's publication of

that size standard as an interim final rule violated applicable provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553, requiring notice and comment as part of agency rulemaking procedures. *Analysas Corp. v. Bowles*, No. 93-0711, slip. op. (D.D.C. June 23, 1993). Because applicable provisions of the APA were not followed, the Court vacated the \$18 million size standard for environmental services under SIC code 8744. *Id.* at 10.

This final rule formally withdraws the environmental services size standard. This allows the SBA to begin a new rulemaking action to reconsider a size standard for environmental services. Published elsewhere in this issue of the *Federal Register* a size standard for environmental services of \$18 million is being proposed for public comment.

Compliance With Regulatory Flexibility Act, Executive Orders 12291, 12612, 12778, and the Paperwork Reduction Act

General

SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) as it is merely withdrawing the interim final rule in compliance with a court order. In addition, this rule will not constitute a major rule for the purpose of Executive Order 12291 for the same reasons.

Further, SBA certifies that this rule will not impose any paperwork or recordkeeping requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that order.

List of Subjects in 13 CFR Part 121

Government procurement,
Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), and 634(b)(6), 637(a) and 644(c).

2. In § 121.601 Major Group 87, is amended in the table by revising SIC code 8744 to read as follows:

§ 121.601 Standard Industrial classification codes and size standards.

SIZE STANDARDS BY SIC INDUSTRY

SIC (*=new SIC code in 1987, not used in 1972)	Description (N.E.C.—not else- where classified)	Size stand- ards in num- ber of em- ployees or millions of dollars
8744*	Facilities Support Management Services ¹⁹ .	\$3.5
	Base Maintenance ²⁰ .	13.5

¹⁹ Facilities Management, a component of SIC code 8744, has the following definition: Establishments, not elsewhere classified, which provide overall management and the personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities arrangement means furnishing three or more personnel supply services which may include, but are not limited to, secretarial services, typists, telephone answering, reproduction or mimeograph service, mailing service, financial or business management, public relations, conference planning, travel arrangements, word processing, maintaining files and/or libraries, switchboard operation, writers, bookkeeping, minor office equipment maintenance and repair, use of information systems (not programming), etc.

²⁰ SIC code 8744: If one of the activities of base maintenance, as defined below, can be identified with a separate industry, and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard shall be that for the particular industry, and not the base maintenance size standard.

"Base Maintenance" constitutes three or more separate activities. The activities may be either service or special trade construction related activities. As services, these activities must each be in a separate industry. These activities may include, but are not limited to, such separate maintenance activities as Janitorial and Custodial Service, Protective Guard Service, Commissary Service, Fire Prevention Service, Safety Engineering Service, Messenger Service, and Grounds Maintenance and Landscaping Service. If the contract involves the use of special trade contractors (plumbing, painting, plastering, carpentering, etc.), all such specialized special trade construction activities will be considered a single activity, which is Base Housing Maintenance. This is only one activity of base maintenance and two additional activities must be present for the contract to be considered base maintenance. The size standard for Base Housing Maintenance is \$7 million, the same size standard as for Special Trade Contractors.

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