

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR REACTOR REGULATION  
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS  
OFFICE OF ENFORCEMENT  
WASHINGTON, D.C. 20555

February 25, 2000

NRC INFORMATION NOTICE 2000-04: 1999 ENFORCEMENT SANCTIONS FOR  
DELIBERATE VIOLATIONS OF NRC EMPLOYEE  
PROTECTION REQUIREMENTS

Addressees

All U.S. Nuclear Regulatory Commission licensees.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this information notice to remind licensees and their employees of the sanctions that could result from deliberately violating NRC Employee Protection requirements. Licensees are expected to review this information notice, distribute it to management and staff involved in licensed activities, including senior management at nuclear power plants, fuel cycle facilities, and byproduct materials facilities and consider appropriate actions to avoid similar problems. No written response is required.

Discussion

The NRC places a high value on nuclear industry employee's freedom to raise potential safety concerns both to licensee management and to the NRC without fear of reprisal or actual harassment and intimidation. Section 211 of the Energy Reorganization Act (ERA), as amended and 10 CFR 19.20, 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, 72.10, and 76.7 provide that no employer may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee engaged in certain protected activities. These protected activities include notifying an employer of an alleged violation of the Atomic Energy Act or the ERA, refusing to engage in any practice made unlawful by those acts, testifying before Congress or in a Federal or State proceeding regarding any provision of these acts, or commencing, testifying, assisting, or participating in any manner in a proceeding under these acts. Licensees and contractors are responsible for ensuring that they do not discriminate against their employees for engaging in such protected activities. Licensees and contractors that discriminate against their employees who engage in protected activities are subject to sanctions by the NRC. These sanctions include notices of violation (NOVs) and civil penalties (CPs).

In addition, under the Deliberate Misconduct Rule (see 10 CFR 30.10 and 10 CFR 50.5) licensee and contractor employees, including senior managers, are subject to sanctions by the NRC for discrimination against other employees who engage in protected activities. These

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sanctions include orders barring individuals from NRC licensed activities. Significant NRC enforcement actions are published in NUREG-0940 and can be accessed through the NRC Office of Enforcement's home page at [www.nrc.gov/OE](http://www.nrc.gov/OE). The NRC enforcement policy accessed through this home page explains the sanctions in more detail.

#### Significant 1999 Enforcement Actions and Sanctions

- (1) On March 9, 1999, the NRC issued a Severity Level II NOV and proposed CP in the amount of \$88,000 to Northeast Nuclear Energy Company in connection with a violation of Section 50.7 at the Millstone Station in August 1997 (enforcement action (EA) 97-461). The action was based upon a violation involving discrimination against two contract employees at Millstone's Motor Operated Valve (MOV) Department. Their terminations were recommended by the then MOV supervisor and supported by the then MOV Manager, both of whom were also contract employees. Although each termination constituted a separate instance of discrimination, the staff combined the terminations into one violation. The licensee paid the civil penalty on March 31, 1999.
- (2) On April 6, 1999, the NRC issued a Severity Level II NOV to Northeast Nuclear Energy Company for Section 50.7 violations associated with the demotion of two supervisors during a November 1993 reorganization, and the termination of an electrical engineering supervisor in the Engineering Services Department at Millstone Unit 2 in August 1995 (EA 98-325).
- (3) On April 6, 1999, the NRC issued a Severity Level II NOV to the vice president for nuclear engineering services at Northeast Nuclear Energy Company's Millstone Station (individual action (IA) 99-012). The finding was based on an investigation which concluded that the vice president had discriminated against a supervisor in the Performance Engineering group and a supervisor in the Engineering Mechanics group at Millstone because of their involvement in protected activities (see paragraph 2 above).
- (4) On May 20, 1999, the NRC issued a Severity Level II NOV and proposed CP in the amount of \$110,000 in connection with a Section 50.7 violation in July 1997 at First Energy Nuclear Operating Company's Perry Nuclear Power Plant (EA 99-012). The action is based upon a violation involving a Perry radiation protection manager who discriminated against a radiation protection supervisor for engaging in protected activities. The manager had orally counseled the supervisor the day before the supervisor's scheduled deposition in a Department of Labor matter and placed a memorandum documenting the counseling session in the supervisor's personnel file.
- (5) On June 2, 1999, the NRC issued a Severity Level II NOV and proposed CP in the amount of \$4,400 to Corielle Institute for Medical Research (EA 99-060). The action is based on a violation of 10 CFR 30.7 for discrimination against a lab technician. The technician was terminated after raising safety concerns to his management and the NRC regarding unnecessary exposure to employees from the use of P-32 in a laboratory. The licensee responded and paid the civil penalty on June 23, 1999.

- (6) On July 28, 1999, the NRC issued a Severity Level IV NOV to Public Service Electric and Gas Company (EA 99-055). The action is based on a violation of 10 CFR 50.7 for discrimination against a nuclear mechanical technician. The technician received a negative performance appraisal in retaliation for raising safety concerns about the repair of a safety-related valve.
- (7) On August 3, 1999, the NRC issued a Severity Level III NOV and proposed CP in the amount of \$55,000 to North Atlantic Energy Services Corporation's (NAESC) Seabrook facility (EA 98-165). The action is based on a violation of 10 CFR 50.7: a licensee contractor discriminated against a contract electrician because of the electrician's involvement in protected activity. Specifically, the contractor electrician was selected for layoff on January 16, 1998, at least in part, because he had raised a concern to the licensee's quality control inspector on January 7, 1998. The concern regarded a wiring discrepancy in the control panel of the control building air-conditioning system. The licensee replied and paid the civil penalty on September 2, 1999.
- (8) On August 3, 1999, the NRC issued a Severity Level III NOV (EA 98-338) to Williams Power Corporation (WPC) for the discrimination described in paragraph 7 above. The action is based on a violation of 10 CFR 50.7: the WPC discriminated against a WPC electrician for raising a concern about a wiring discrepancy in a control panel.
- (9) On August 3, 1999, the NRC issued a Severity Level III NOV (IA 99-003) to the WPC foreman who engaged in the deliberate misconduct that caused NAESC to be in violation of 10 CFR 50.7 by discriminating against an electrician employed by WPC at NAESC's Seabrook facility (see paragraph 7 above).
- (10) On September 24, 1999, the NRC issued a confirmatory order (effective immediately) to Morrison Knudsen Corporation (MK), a construction engineering firm engaged in activities at multiple reactor and nuclear materials facilities (EA 98-081). The order also encompassed MK's affiliate, SGT, LLC. The enforcement action was based on the results of an NRC investigation which concluded that MK had discriminated against a corporate group welding engineer (GWE) for raising safety concerns. Specifically, the investigation concluded that MK removed the corporate GWE from his position and transferred him to an MK project in Parkersburg, WV, as a site welding engineer, after he delivered adverse reports to MK management about the quality of welding procedures used by MK to replace steam generators at the Point Beach and D.C. Cook nuclear power plants.

The confirmatory order requires, in part, that MK and SGT, LLC: (1) hire an independent consultant to conduct audits, to review their employees concerns programs, and to train supervisors and managers; (2) conduct annual mandatory continuing training programs; (3) integrate a cultural assessment survey developed by the consultant into its overall program for improving the work environment and safety culture; and (4) post

Section 211 "Confirmatory Order", of the Energy Reorganization Act, as amended, and NRC Form 3 to inform their employees of the confirmatory order, and their right to raise safety concerns to management and the NRC without fear of retaliation.

- (11) On September 30, 1999, the NRC issued a Severity Level III NOV to Illinois Power Company for a violation of Section 50.7 at the Clinton Power Station in January 1997 (EA 98-464). The action was based upon a violation by a supervisor in the Quality Verification (QV) Department who discriminated against a QV inspector for having engaged in protected activities. Specifically, in 1994 the QV inspector had provided information to the NRC on potential violations nuclear safety. As a result, the QV supervisor did not recommend the QV inspector for promotion to lead QV inspector.
- (12) On September 30, 1999, the NRC issued a Severity Level III NOV to the QV manager at Illinois Power Company's Clinton Power Station (IA 99-045). The finding was based on an investigation concluding that the QV manager had discriminated against a QV inspector thus violating 10 CFR 50.7 (see paragraph 11 above).
- (13) On November 3, 1999, the NRC issued a Severity Level II NOV and proposed CP in the amount of \$110,000 to Commonwealth Edison Company in connection with a violation of Section 50.7 at the Zion Generating Station (EA 98-518). The action was based upon a violation involving the actions of a shift operations supervisor (SOS). The SOS discriminated against a senior reactor operator (SRO) who had recommended on October 14, 1997, that a component water pump be removed from service to troubleshoot an oil leak and who had raised a safety concern about the performance of a safety-related diesel generator load-sequencing timer. The SOS deferred the SRO's participation in the shift manager qualification process (which a prior SOS had previously instructed him to begin) and, on October 24, 1997, lowered the SRO's performance appraisal which had been prepared by the SRO's shift manager.
- (14) On November 3, 1999, the NRC issued a Severity Level II NOV to the SOS for a violation involving discrimination against an SRO at Commonwealth Edison Company (IA 99-052) (see paragraph 13 above).
- (15) On December 20, 1999, the NRC issued a Severity Level II NOV and proposed imposition of civil penalty in the amount of \$88,000 to the United States Enrichment Corporation (USEC)(EA 99-110). The action is based on a violation involving a manager of safety, safeguards, and quality who discriminated against a quality systems (QS) manager for engaging in a protected activities. Specifically, the QS manager had engaged in protected activities regarding the lack of completeness in the Paducah plant quality assurance plan (QAP). In addition, the QS manager asserted that non-QAP-related activities were negatively impacting his group's responsibilities, as outlined in the QAP. In part, because of these protected activities, the QS manager was transferred to a non-managerial training department position.

- (16) On December 20, 1999, the NRC issued a Severity Level II NOV to the USEC manager of safety, safeguards, and quality for deliberate misconduct that caused USEC to be in violation of 10 CFR 76.7(a) (IA 99-059). The misconduct involved his discrimination against the QS manager for that manager having engaged in protected activities (see paragraph 15 above).

No specific action or written response is required by this information notice. If you have any questions about this matter, please call the contact listed below or the appropriate NRC regional office.

/RA/  
Donald A. Cool, Director  
Division of Industrial and  
Medical Nuclear Safety  
Office of Nuclear Material Safety  
and Safeguards

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Contact: Michael Stein, OE  
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Attachments:

1. List of Recently Issued NMSS Information Notices
2. List of Recently Issued NRC Information Notices

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LIST OF RECENTLY ISSUED  
 NMSS INFORMATION NOTICES

Information Notice No.	Subject	Date of Issuance	Issued to
2000-03	High-Efficiency Particulate Air Filter exceeded Mass Limit Before Reaching Expected Differential Pressure	02/22/2000	All NRC licensed fuel-cycle conversion, enrichment, and fabrication facilities
2000-02	Failure of Criticality Safety Control to Prevent Uranium Dioxide (UO <sub>2</sub> ) Powder Accumulation	02/22/2000	All NRC licensed fuel-cycle conversion, enrichment, and fabrication facilities
99-33	Management of Wastes Contaminated With Radioactive Materials	12/28/99	All medical licensees
99-32	The Effect of the Year 2000 Issues on Medical Licensees	12/17/99	All NRC medical licensees
99-31	Operational Controls to Guard Against Inadvertent Nuclear Critically	11/17/99	All NRC licensed fuel cycle conversion, enrichment and fabrication facilities
99-30	Failure of Double Contingency Based on Administrative Controls Involving Laboratory Sampling and Spectroscopic Analysis of Wet Uranium Waste	11/8/99	All fuel cycle licensees and certificates performing laboratory analysis to determine uranium content, in support of administrative criticality safety controls
99-29	Authorized Contents of Spent Fuel Casks	10/28/99	All power reactor licensees and spent fuel storage licensees and applicants
99-28	Recall of Star Brand Fire Protection Sprinkler Heads	9/30/99	All holders of licenses for nuclear power, research and test reactors, and fuel cycle facilities
99-27	Malfunction of Source Retraction Mechanism in Cobalt-60 Teletherapy Treatment Units	9/2/99	All medical licensees authorized to conduct teletherapy treatments

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2000-01	Operational Issues Identified in Boiling Water Reactor Trip and Transient	02/11/00	All holders of licenses for nuclear power reactors
99-34	Potential Fire Hazard in the use of Polyalphaolefin in Testing of Air Filters	12/28/99	All holders of licenses for nuclear reactors and fuel cycle facilities
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