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

March 19, 1999

NRC INFORMATION NOTICE 99-06: 1998 ENFORCEMENT SANCTIONS AS A RESULT OF 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 requirements in the area of employee protection. It is expected that licensees will review this information notice, distribute it to management and staff involved with licensed activities, including senior management at nuclear power plants, and consider actions, as appropriate, to avoid similar problems. No written response is required.

Discussion

The NRC places a high value on nuclear industry employees being free to raise potential safety concerns to both licensee management and to the NRC without fear of reprisal or actual harassment and intimidation. Section 211 of the Energy Reorganization Act (ERA), and 10 CFR 19.20, 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, and 72.10, 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 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 discrimination does not occur against their employees for engaging in such protected activities. Licensees and contractors who discriminate against their employees for the employees' protected activities are subject to sanctions by the NRC. These sanctions include Notices of Violation (NOVs) and Civil Penalties.

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In addition, under the Deliberate Misconduct Rule (see e.g., 10 CFR 30.10 & 10 CFR 50.5), licensee and contractor employees, including senior managers, are subject to sanctions by the NRC for discrimination against other employees for these employees' protected activities. These sanctions include Orders barring individuals from 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.

Descriptions of Significant 1998 Enforcement Actions and Sanctions

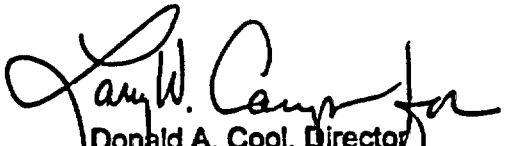
- (1) On January 16, 1998, an NOV (EA 97-451) was issued to Construction Products Research, Inc. (CPR) and Five Star Products, Inc. (Five Star) based on a Severity Level I violation of 10 CFR 50.7. Specifically, CPR and Five Star, a subcontractor and contractor to Commission licensees, respectively, through the actions of the president and vice-president of CPR and the president and vice-president of Five Star, discriminated against the former Director of Research of CPR. This discrimination resulted from the former Director raising safety concerns to the NRC regarding the quality of testing products CPR and Five Star supplied to nuclear power plants, and cooperating with the NRC in connection with the NRC's investigation of CPR and Five Star. CPR and Five Star were also the subject of an Order, dated December 1, 1995, prohibiting CPR, Five Star, and H. Nash Babcock from providing or supplying their services and products, including grout and concrete, certified as meeting 10 CFR Part 50, Appendix B requirements, to NRC licensees. CPR and Five Star responded to the NOV on February 13, 1998.

- (2) On June 9, 1998, the NRC issued to South Texas Project Electric Generating Station (STP) a Confirmatory Order Modifying License (Effective Immediately) (EA 97-341) for a violation of 10 CFR 50.7 requirements. The violation involved the licensee subjecting four employees to a hostile work environment created by the conduct of a former manager who retaliated against these employees for engaging in protected activities. The Confirmatory Order confirmed STP's commitments to ensure that its process for addressing employee protection and safety concerns would be enhanced. At the same time, the staff announced that it was exercising enforcement discretion under Section VII.B.6 of the Enforcement Policy and would not pursue an NOV or Civil Penalty in this case primarily because: (1) the licensee settled the four employee protection complaints prior to an evidentiary hearing before, and prior to a finding that discrimination had occurred by, the United States Department of Labor; (2) the licensee took effective corrective actions as outlined in the Order; (3) the licensee had planned actions to monitor the safety environment and to promote an atmosphere conducive to the raising of safety concerns by employees without fear of retaliation; and (4) the licensee's overall sustained performance in the area of employee protection had been good.

Description of Withdrawal of Significant 1997 Enforcement Action and Sanction

On February 9, 1998, the NRC issued Information Notice 98-04 which stated that on October 31, 1997, an NOV and Proposed Imposition of a \$10,000 Civil Penalty was issued to Mattingly Testing Services, Inc. (MTSI) (EA 97-180) based on a Severity Level III violation of 10 CFR 30.7. On September 15, 1998, the NRC withdrew the NOV and Proposed Imposition of Civil Penalty to MTSI based upon further review of the evidence, and MTSI's commitment to institute a new policy regarding cooperative maintenance of a safety conscious work environment. Withdrawal of the NOV completes the action with regard to this case.

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.


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


David B. Matthews, Director
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Contact: Michael Stein, OE
301-415-1688
E-mail: mhs@nrc.gov

Attachments:

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

**LIST OF RECENTLY ISSUED
 NMSS INFORMATION NOTICES**

Information Notice No.	Subject	Date of Issuance	Issued to
99-05	Inadvertent Discharge of Carbon Dioxide Fire Protection System and Gas Migration	3/8/99	All holders of licenses for nuclear power, research, and test reactor, and fuel cycle facilities
99-04	Unplanned Radiation Exposures to Radiographers, Resulting from failures to follow Proper Radiation Safety Procedures	3/8/99	All radiography licensees.
99-03	Exothermic Reactions Involving Dried Uranium Oxide Powder (Yellowcake)	1/29/99	All operating uranium recovery facilities that produce oxide powder (U ₃ O ₈) (yellowcake)
99-02	Guidance to Users on the Implementation of a New Single-Source Dose-Calculation Formalism and Revised Air-Kerma Strength Standard for Iodine-125 Sealed Sources	1/21/99	All medical licensees authorized to conduct brachytherapy treatments.
99-01	Deterioration of High-Efficiency Particulate Air Filters in a Pressurized Water Reactor Containment Fan Cooler Unit	1/20/99	All holders of licenses for nuclear power, research and test reactors; and fuel cycle facilities.
98-33 Regulatory	NRC Regulations Prohibit Agreements that Restrict or Discourage an Employee from Participating in Protected Activities	8/28/98	All holders of a Nuclear Commission license
98-30	Effect of the Year 2000 Computer Problem on NRC Licensees and Certificate Holders	8/12/98	All material and fuel cycle licensees and certificate holders
97-91 Supp. 1	Recent Failure of Control Cables Used on Amersham Model 660 Posilock Radiography Systems	8/10/98	All industrial radiography licensees.

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99-01	Deterioration of High-Efficiency Particulate Air Filters in a Pressurized Water Reactor Containment Fan Cooler Unit	01/20/99	All holders of licenses for nuclear power, research and test reactors; and fuel cycle facilities.
98-45	Cavitation Erosion of Letdown Line Orifices Resultin in Fatigue Cracking of Pipe Welds	12/15/98	All holders of operating licenses for nuclear power reactors, except those that have permanently ceased operations and have certified that fuel has been permanently removed from the reactor.

OL = Operating License
CP = Construction Permit

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Orig /s/'d by
 Larry W. Camper FOR

Orig /s/'d by
 Scott F. Newberry FOR

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

David B. Matthews, Director
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OFFICE	OE	OE	OE	(A)C:PECB
NAME	MStein*	RBorchardt*	JLieberman*	RDennig*
DATE	2/25/99	2/5/99	2/25/99	3/8/99
OFFICE	D:IMNS	D:DRIP		
NAME	DCool*	DMatthews		
DATE	3/8/99	3/1/99		

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NAME	MStein*		RBorchardt*		JLieberman*		RDennig*	
DATE	2/25/99		2/5/99		2/25/99		3/8/99	
OFFICE	D:IMNS		D:DRPM					
NAME	DCool*		DMatthews					
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- Penalty to MTSI based upon further review of the evidence, and MTSI's commitment to institute a new policy regarding Cooperative Maintenance of a Safety Conscious Work Environment. Withdrawal of the NOV completes the action with regard to this case.

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<i>m.s.</i> MStein	<i>RWB</i> RW Borchardt	DCool	DMatthews	<i>JL</i> JLieberman
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