UNITED STATES NUCLEAR REGULATORY COMMISSION

ENVIRONMENTAL ASSESSMENT

AND

FINDING OF NO SIGNIFICANT IMPACT

FOR THE FINAL RULE AMENDING

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

EMPLOYEE PROTECTION REGULATIONS:

CLARIFICATION OF NRC CIVIL PENALTY AUTHORITY

RIN 3150-AH59

ENVIRONMENTAL ASSESSMENT

Identification of the Proposed Action:

The proposed action would amend the Nuclear Regulatory Commission's (NRC's) employee protection requirements in 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 71, 72, and 76 to allow the Commission to impose civil penalties upon non-licensee contractors and subcontractors of a Commission licensee, or applicant for a Commission license, who violate the Commission's employee protection regulations by discriminating against employees for engaging in protected activities. In addition, 10 CFR Part 76 is being amended, to make it consistent with the other NRC employee protection requirements, to provide that the Commission may impose a civil penalty on the United States Enrichment Corporation (Corporation), as well as a contractor or subcontractor of the Corporation.

The Need for the Action:

The employee protection requirements in 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 71, 72, and 76 prohibit Commission licensees, applicants for a Commission license, holder of or

applicant for a Certificate of Compliance (CoC), the Corporation, or contractor or subcontractor of these entities from discriminating against their employees for engaging in protected activities. The NRC, to effectively fulfill its mandate, requires complete, factual, and current information concerning the regulated activities of its licensees. Employees of contractors and subcontractors and the United States Enrichment Corporation are an important source of such information. The NRC's policy is to hold its licensees responsible for compliance with NRC requirements, even if licensees use contractors for products or services related to licensed activities. Although the employee protection regulations prohibit discrimination by a contractor or subcontractor, these regulations do not explicitly provide for imposition of a civil penalty on a contractor or subcontractor. The amendments would clearly allow the NRC to impose a civil penalty on a contractor or a subcontractor of licensees, applicants, or the United States Enrichment Corporation for violating the NRC's employee protection requirements.

Environmental Impacts of Action:

The amendments would clarify that a civil penalty may be imposed on contractors, subcontractors, and the United States Enrichment Corporation, for a violation of the NRC employee protection requirements. The actions that would involve violations or subsequent enforcement of the employee protection requirements are procedural in nature and will not change the processes or manufacturing procedures relating to licensed activities or alter the release of effluents to the environment. Therefore, clarifying that a civil penalty may be imposed on contractors or subcontractors of licensees, applicants for a license, or the United States Enrichment Corporation will change neither the permissible environmental impacts from licensed activities, nor have a direct or reasonably foreseeable indirect effect on the water, land, or air.

The NRC staff has determined that Section 7, consultation of the Endangered Species Act, is not required, because the action is administrative and procedural in nature and will not affect listed species or critical habitat. Likewise, the NRC staff has determined that the action is not the type of action that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

Environmental Impacts of the Alternatives to the Action:

As an alternative to the action, the staff considered taking no action, which would leave in place the current regulations without change (i.e., the "no action alternative"). If the employee protection requirements are left unchanged, there would be no change in the current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar. The alternative to the proposed action was rejected, because it would not provide the additional deterrence to the United States Enrichment Corporation or to contractors or subcontractors of the United States Enrichment Corporation, licensees, or applicants violating the NRC's employee protection requirements that would be achieved by the proposed action. By deterring retaliation against employees engaging in protected activities, employees of the United States Enrichment Corporation or contractors or subcontractors of the United States Enrichment Corporation, licensees, or applicants will be more likely to raise regulatory and safety concerns.

Alternative Use of Resources:

There are no irreversible commitments of resources determined in this assessment.

Agencies and Persons Consulted:

The NRC sent a copy of the draft environmental assessment and the proposed rule to every State Liaison Officer and requested their comments on the Environmental Assessment. The NRC did not receive any comments on the draft environmental assessment.

Finding of No Significant Impact:

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the amendments are not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The amendments would establish a civil penalty as a possible sanction for contractors or subcontractors who violate the NRC employee protection requirements and would make the employee protection requirements in 10 CFR Part 76 consistent with the other NRC employee protection requirements. The amendments are procedural in nature and would have no significant impact on the environment.

The determination of this environmental assessment is that there will be no significant impact to the public from this action.