



3 December 2014

Roy P. Zimmerman, Director  
Office of Enforcement  
Nuclear Regulatory Commission  
Washington, DC 20555-0001

Re: Report of ABSG Consulting Inc. as to actions taken following  
NRC Office of Investigations Report No. 1-2010-050

Dear Mr. Zimmerman:

On behalf of ABSG Consulting Inc. ("ABSG") I confirm that the actions required of ABS Consulting have all been taken as required by the Confirmatory Order dated 17 April 2012.

As noted in Clause III of the Confirmatory Order, ABSG had taken certain actions prior to the mediation on 12 March 2012, including:

1. Issuance of a letter to the manager involved with the termination of the employment of the individual reiterating ABSG's commitment to its non-retaliation policies;
2. Directing ABSG's Manager of Employee Relations to draft an expanded anti-retaliation policy for inclusion in the Company's Policies and Benefits Guide. The policy has been approved and implemented and will be included in the next revision of the Company's Personnel Policies and Benefits Guide tentatively scheduled for 1 March 2015.
3. Directing ABSG's Director of Compliance to draft an expanded anti-retaliation policy for inclusion in the Company's Code of Ethics. The current version (October 2013) of the Company's Code of Ethics has an expanded section on Reporting and Non-Retaliation Policy. All employees are required to undergo annual Code of Ethics training.

The Confirmatory Order required that

1. The President of ABSG issue a communication in writing to those employees involved in its U.S. Nuclear Utilities Market Sector informing them of the Company's policy and their right and avenues for raising nuclear safety concerns without fear of retaliation. This communication is also required to

be provided to all new hire employees within thirty days of their assumption of duties. The employees must confirm their receipt of such a communication in writing. This communication was issued by David Walker on 12 July 2012 to all those then current employees of the U.S. Nuclear Utilities Market Sector (See Attachment A).

2. ABSG was also required to hire an external consultant with expertise in NRC employee protection regulations to develop anti-retaliation training for all ABSG U.S. Nuclear Utilities Market Sector employees and this training should include those items identified in 10 CFR 50.7 "Employee Protection".

This training was to meet certain requirements i.e. to

- a. Inform managers that it is the position of the NRC that ABSG is subject to 10 CFR 50.7.
- b. Define key terms and include examples of discriminatory practices that address all categories of protected activities listed in 10 CFR 50.7.
- c. Inform employees of their rights and avenues for raising nuclear concerns (including to the NRC) without fear of retaliation.

I confirm that this training was provided (as required by the Confirmatory Order) by an outside consultant with expertise in NRC employee protection regulations. Timothy Matthews, Partner, Energy Practice of Morgan Lewis provided this training to employees of ABSG in the U.S. Nuclear Utilities Market Sector on the following dates at the locations as noted:

Irvine, California	30 May 2013
Rockville, Maryland	27 June 2013

A review of the training documents shows that there was no reference to the protected activity of testifying before the Commission and while we have confirmed with one of the lawyers attending both sessions that this had in fact been discussed in detail during both sessions, we will ensure that this will be included in the future written training materials. This training is to be provided every two years and may be provided by ABSG staff following the first set of training. Training records have been retained in accordance with ABSG record retention policies. ABSG Consulting Inc. will perform this training itself following the initial training.

In addition, ABSG was required and has established a process to conduct a secondary review of all proposed adverse actions (including written reprimand or above, but excluding reductions-in-force and other ordinary layoffs) for any U.S. Nuclear Utilities Market Sector employee who may have engaged in protected activities to

ensure that these actions comport with applicable employee protection requirements and assess and mitigate the potential for any chilling effect on such activities.

I confirm that ABSG has established such requirements for this process and that such review is to be conducted by management personnel, including legal and/or human resource personnel (See Attachment B). This policy and procedure will be reissued shortly in order to remove the three (3) year limitation in Clauses 4.1 and 5.1.

Lastly, I confirm that ABSG published in an online newsletter an article concerning the protections afforded by 10 CFR 50.7 (See Attachment C) and this was posted on or about 15 October 2012.

To conclude, I confirm that all the actions required to be taken by ABSG have been taken.

Yours sincerely



Sarah M. Barton  
Vice President and  
General Counsel  
ABS Group of Companies, Inc.

**Attachments:**

- A. Correspondence dated 12 July 2012 from David A. Walker
- B. Second Level Review of Proposed Disciplinary Actions  
U.S. Nuclear Utilities Market Sector
- C. Article concerning the protections afforded by 10 CFR 50.7

# ABS Consulting

## MEMORANDUM

**TO:** All employees of ABS Consulting in the U.S. Nuclear Utilities Market Sector

**FROM:** David A. Walker

**DATE:** 12<sup>th</sup> July 2012

**RE:** ABSG Consulting Inc.'s policy against retaliation for those employees raising nuclear safety concerns.

ABSG Consulting Inc. (the "Company") maintains a strict policy forbidding retaliation against any employee for raising nuclear safety concerns. It is the Company's firm commitment to abide by the Nuclear Regulatory Commission's ("NRC") requirements to their fullest extent, including any and all prohibitions of retaliation against employees in the nuclear industry for raising such concerns. It has been and remains the goal of ABS Consulting to maintain a safety conscious work environment in which employees are encouraged to raise any safety concerns to management and to the NRC without fear of reprisal or other adverse employment action.

I have attached to this memorandum a copy of the anti-retaliation provisions of the NRC regulations, 10 C.F.R. 50.7, for your review.

The Company takes its obligation to abide by the NRC's anti-retaliation requirements seriously. In this regard, the Company strictly prohibits any form of retaliation against employees for engaging in "protected activities", which may include (i) reporting alleged violations of nuclear energy laws to the NRC or to ABS Consulting; (ii) refusing to engage in unlawful activities in violation of nuclear energy laws; (iii) requesting the NRC to institute enforcement action against ABS Consulting ; (iv) testifying in NRC proceedings before Congress, or any other federal or state proceedings regarding nuclear energy laws; and (v) assisting or participating in any of these activities. It is and has been ABS Consulting's policy to follow all NRC requirements without exception, and any breach of this policy will not be tolerated.

Should you have any questions concerning the Company's policy against retaliation, please do not hesitate to contact Ray Bennett in the HR Department or David Lawson in the Legal Department in Houston.

This communication is being provided to all the current employees of ABS Consulting assigned to the U.S. Nuclear Utilities Market Sector and will also be provided

to all new employees in this market sector within thirty days of their assumption of duties.

Please confirm your receipt of this memorandum and its attachment by signing the acknowledgment below and send the original document to Barbara Mitchell.



David A. Walker  
President  
ABSG Consulting Inc.

Attachment: 10 C.F.R. 50.7

*I confirm my receipt of the above Memorandum and its attachment.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ July 2012

Name:

Title:



Home > NRC Library > Document Collections > NRC Regulations (10 CFR) > Part Index > § 50.7 Employee protection.

## § 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, applicant, or a contractor or subcontractor of 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, by calling (301) 415-5877, via e-mail to [forms@nrc.gov](mailto:forms@nrc.gov), or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

(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.

[58 FR 52410, Oct. 8, 1993, as amended at 60 FR 24551, May 9, 1995; 61 FR 6765, Feb. 22, 1996; 68 FR 58809, Oct. 10, 2003; 72 FR 63974, Nov. 14, 2007]

*Page Last Reviewed/Updated Monday, June 25, 2012*

## Second Level Review of Proposed Disciplinary Actions – U.S. Nuclear Utilities Market Sector

<b>Doc. Type:</b>	Policies and Procedures for ABSG Consulting Inc.
<b>Date:</b>	13 July 2012
<b>Program Manager:</b>	VP – Nuclear (or designate) ABSG Consulting Inc.
<b>Program Manager Contact Info:</b>	

### 1. APPLICABILITY

- 1.1. This policy applies to all employees of ABSG Consulting Inc., hereafter referred to as the "Company" working in the Company's U.S. Nuclear Utilities Market Sector.

### 2. PURPOSE

- 2.1. The Company prohibits retaliation against any employee in any way associated with or related to any employee's unfettered right to raise nuclear safety concerns and/or engage in any activity which is protected under the Regulations issued by the U.S. Nuclear Regulatory Commission ("NRC") as set forth at 10 CFR Part 50.7. The Company is committed to enforcement of this policy, and the goal of this policy is to provide for protection against retaliation.

### 3. DEFINITIONS

- 3.1 **Protected Activities.** For purposes of this Policy only, "Protected Activities" shall include but are not limited to the following: (i) providing the NRC or the Company information about alleged violations of the Atomic Energy Act or the Energy Reorganization Act; (ii) refusing to engage in unlawful activities in violation of such statutes; (iii) requesting that the NRC institute an enforcement action against the Company; (iv) testifying in any NRC proceeding, before Congress, or at any State or Federal proceeding regarding any provision of such statutes; or (v) assisting or participating in any such protected activity.
- 3.2 **Adverse Employment Action.** For purposes of this Policy only, "Adverse Employment Action" means any disciplinary action at the level of written reprimand or above, reduction in pay, demotion, or discharge, but excludes discharges resulting from a reduction in force or other ordinary lay-off.

### 4. POLICY

- 4.1 It shall be the Company's policy to conduct a secondary review of all proposed Adverse Employment Actions with respect to any employee of the Company's U.S. Nuclear Utilities Market Sector who, in the three (3) years preceding the proposed Adverse Employment Action, has engaged in a Protected Activity as defined in section 3.1, above. This secondary review shall be conducted to ensure that the proposed Adverse Employment Action comports with the Company's anti-retaliation policies and applicable employee protection requirements and to assess and mitigate the potential for any chilling effect on such Protected Activities.

### 5. PROCEDURES



5.1. Prior to imposing any proposed Adverse Employment Action upon any employee who has engaged in a Protected Activity in the three (3) years preceding the proposed Adverse Employment Action, any supervisor or manager wishing to impose such an action shall submit documentation regarding the Adverse Employment Action proposed, along with a written explanation of the reason(s) for the proposed action, to the Vice President of Human Resources for review by the Secondary Review Committee. The Secondary Review Committee shall consist of the following representatives of the Company:

- Vice President of Human Resources or Assistant Vice President of Human Resources
- General Counsel or Associate General Counsel
- Human Resources Specialist for Nuclear Utilities Market Sector (if applicable)
- Director of Compliance (or equivalent management level personnel)

5.2 The review conducted by the Secondary Review Committee shall include, but not be limited to, an examination of the facts supporting the proposed Adverse Employment Action, the prior disciplinary history of the employee(s) involved, and the level of discipline proposed. After all relevant facts have been reviewed and discussed as considered necessary by the Secondary Review Committee, the reviewing representatives shall reach a consensus on the appropriateness of the proposed adverse action(s) in light of all the circumstances and shall assure itself that the proposed adverse action is not in retaliation for the engagement by the affected employee in any Protected Activity. The consensus reached by the Secondary Review Committee shall be documented prior to the imposition of any Adverse Employment Action. If a consensus cannot be reached, the proposed Adverse Employment Action shall not be imposed.

**By Protecting and Supporting Our Employees, We Protect Our Clients and Our Mission: The protections afforded by 10 CFR 50.7: Employee Protection**

Central to the mission of ABSG Consulting Inc. ("ABS Consulting") is the protection of our employees and subcontractors from various types of actions, including but not limited to discrimination or retaliation when they bring to our attention or to the attention of government authorities, conditions or procedures that may or do not conform to the highest safety, legal or ethical standards. This is of particular importance when dealing with nuclear safety. Only by empowering our staff to exercise their critical judgment without fear of unwarranted consequences when they voice their concerns are we able to perform critical work for our clients at the high level which they demand. Accordingly, it is the policy of ABS Consulting not to terminate, suspend, demote, blacklist, or take any other action that would dissuade employees or subcontractors from reporting to their superiors, to the Nuclear Regulatory Commission (NRC) or to Congress violations of NRC procedures or nuclear safety issues.

In fact, ABS Consulting trains and encourages its employees affirmatively to report conditions that might constitute a threat to safety or contravene NRC procedures. Employees are asked to identify and question the impact of inadequate staffing on nuclear safety and point out potential quality and reliability issues with hardware and inadequacies in procedures or services. Accordingly, and as provided in Section 211 of the Energy Reorganization Act of 1974 and in Section 50.7 of the NRC regulations, ABS Consulting employees cannot suffer discrimination or any form of retaliation when they provide to their employer or to the NRC information about potential violations of applicable nuclear safety law, or if they refuse to engage in any unlawful practice or seek NRC action against such violation or improper practice. Protected activities also include filing nonconformance reports, testifying in NRC enforcement proceedings, disclosing or complaining about safety (including radiation level) violations, or even participating in surveillance to identify safety violations, such as incorrectly calibrated instruments.

In furtherance of its safety mission, ABS Consulting informs and trains its employees of their right to seek redress for any discrimination for engaging in these protected activities by filing a complaint with the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division.

When an ABS Consulting team takes on an assignment for a nuclear industry client, our adherence to this strict regime to protect the critical thinking and independent judgment of our employees means that our clients get the best work from the best people. By protecting and in fact demanding accuracy and candor from our staff, we ensure that the best interests of our clients, which invariably include the safety of their employees and of the public, are our first priority.