

# GENERAL ELECTRIC

NUCLEAR SERVICE OPERATION, TWO PIEDMONT CENTER, P.O. BOX 4659  
ATLANTA, GEORGIA 30302, Phone (404) 262-6000

OH 902-4

INSTALLATION AND  
SERVICE ENGINEERING  
DIVISION

SECRET RUMBLE  
PROPOSED RULE

PR - Misc Notice  
Reg Guide

3 June 80



Secretary of the Commission

U.S. Nuclear Regulatory Commission

Washington, D.C. 20555 Attn: Docketing and Service Branch

Dear Sir:

Concerning Draft Reg. Guide Task OH902-4

Question: Does this replace or supplement Reg. Guide 8.13? My opinion is that they should be combined.

My overall comment concerning this reg guide is that it is too long! It would be more effective if it were three pages long.

Question 24-answer (c)-eliminate in its entirety. The effect of this paragraph will be to touch off another series of attempts to force women out of the nuclear industry.

While the NRC is not specifically mentioned in the attached excerpt from the Federal Register, I would like to see 10CFR20 reflect the sentiments marked. Paragraph (c) does not do this.

Yours truly,

*Mary S. Wegner*  
Mary S. Wegner  
Planning Engineer

RECEIVED  
JUN 10 1980  
OFFICE OF THE SECRETARY  
DOCKETING & SERVICE  
BRANCH

Acknowledgment by recd. 6/9/80... mdy...

8007100/35

supervisory employees, know or should have known of the conduct. The subsection further provides that the employer may rebut this apparent liability for the conduct by showing that it took immediate and appropriate corrective action.

Consistent with the policy of voluntary compliance under Title VII, § 1604.11(e) recognizes that the best way to achieve an environment free of sexual harassment is to prevent the occurrence of sexual harassment by using appropriate methods to alert the employees to the problem and to stress that sexual harassment, in any form, will not be tolerated. This subsection requires an employer to take all steps necessary for the prevention of sexual harassment and gives the following as examples of steps which might be deemed necessary: affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise the issue of sexual harassment under Title VII, and developing methods to sensitize all concerned.

#### Alternatives Under Consideration

EEOC is not considering any alternatives at this time. However, EEOC may make revisions to this proposal as a result of comments received.

#### Summary of Benefits

*Sectors Affected:* Employees in all industries subject to Title VII of the Civil Rights Act of 1964.

The Guidelines apply to employers as defined in § 701(j) of Title VII of the Civil Rights Act of 1964. The Guidelines will aid the agency in fulfilling its mandate under Title VII of the Civil Rights Act of 1964 to eliminate employment discrimination on the basis of sex.

#### Summary of Costs

*Sectors Affected:* None.

The Guidelines require employers subject to Title VII of the Civil Rights Act of 1964 to take all steps necessary for the prevention of sexual harassment. The Commission believes that the costs to be borne by employers in complying with the Guidelines will be minimal.

#### Related Regulations and Actions

EEOC has jurisdiction over the Federal agencies' Affirmative Action Plans and has directed agencies to prepare them and submit them to EEOC. The Commission has specifically directed that Federal agencies include, as a supplement to their phase II Affirmative Action Planning Process, a

plan indicating the steps the agency will take to prevent sexual harassment.

#### Active Government Collaboration

In compliance with E.O. 12067 (3 C.F.R. 1978, Comp., p. 206), the Commission has consulted with representatives of the Office of Personnel Management, and the Departments of Justice; Labor, and Health, Education, and Welfare.

#### Timetable

Public Comment Period—ends June 10, 1980  
Regulatory Analysis—EEOC will not prepare

#### Available Documents

Copies of the Guidelines, published April 11, 1980, are available through the Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

#### Agency Contact

Frederick D. Dorsey, Director  
Office of Policy Implementation,  
Equal Employment Opportunity  
Commission, 2401 E Street, N.W.,  
Washington, D.C. 20506  
(202) 634-7060

#### EEOC-OPI

#### Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

#### Legal Authority

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000(e) *et seq.*

#### Reason for Including This Entry

The Equal Employment Opportunity Commission (EEOC) believes these Guidelines are important because employment policies, practices, and plans relating to reproductive hazards can have the effect of denying employment opportunities to individuals. Thus, the Guidelines will aid in the elimination of discrimination on the basis of sex.

#### Statement of Problem

The Hazardous Substances Guidelines are the result of collective efforts and expertise of several Federal agencies. These efforts were necessitated by charges presented to the Equal Employment Opportunity Commission and to the Office of Federal Contract Compliance Programs (OFCCP), alleging employment discrimination in workplaces containing substances and conditions hazardous to reproductive health.

Also, EEOC and OFCCP became aware of the increasing number of employers and contractors who are initiating policies excluding all women of childbearing capacity from certain jobs because of exposure to hazardous substances or conditions. A number of employers and contractors have policies of not hiring women of childbearing capacity for jobs in which there is exposure to alleged reproductive hazards, and have terminated or transferred women to lower paying jobs based on such policies. Employers and contractors in establishing such practices often show a lack of concern for similar effects upon men. Some employers and contractors have attempted to justify these policies on the basis of potential harm occurring to an unborn child through exposure of the mother. These policies have been developed without apparent regard to whether exposure of the father can result in harm to the unborn child. Preliminary evidence indicates that as many as 20 million jobs may involve exposure in the workplace to alleged reproductive hazards.

In response to such exclusionary practices, the EEOC, on April 21, 1978, issued a policy statement indicating its concern about whether such practices conform with Federal antidiscrimination laws. In a May 31, 1978 letter from the Department of Labor's Assistant Secretary for Occupational Safety and Health, (OSHA) expressed its concern regarding employment practices which deny opportunities to any class of workers on the basis of safety and health. On February 1, 1980, the EEOC published Guidelines specifically addressing those situations involving allegations of sex discrimination.

Title VII and E.O. 11246 require that the enforcement agencies closely scrutinize the exclusion of a sex-based class from consideration for employment.

Exclusions which, by their terms, are based on membership in a sex-based class are per se violations of Title VII and E.O. 11246 because the exclusions are expressed or implemented in terms of membership in a class protected by Title VII and E.O. 11246. Also, an employer/contractor's conduct which treats disparately members of a sex-based class raises a presumption of a violation of Title VII and E.O. 11246. Finally, a neutral employment policy which is neutral on its face which has an adverse impact upon a specific sex-based class is an unlawful employment practice unless it is truly neutral and is justified by the employer/contractor.

It is important to note that, as a result of the Pregnancy Discrimination Act,

P.L. 95-555, 92 Stat. 2067 (1978), women affected by pregnancy, childbirth, or related medical conditions constitute a protected class under Title VII. All such women must be treated the same for employment-related purposes as other persons not so affected but similar in their ability or inability to work. For example, where an employer/contractor seeks to determine the hazardous reproductive effects on pregnant women from their exposure to a certain substance or condition, the employer/contractor must also determine the effects on males and nonpregnant females from the same exposure.

If the hazard is known to affect the fetus through either parent, an exclusionary policy directed only at women would be unlawful under Title VII and E.O. 11246. Further, if the hazard is shown by reputable scientific evidence to affect the fetus through women only, the class excluded must be limited to pregnant women and not all women of child-bearing capacity. Whether expressed in a policy or not, the employer/contractor's conduct will be examined by the enforcement agencies to determine whether the conduct is nondiscriminatory or justified.

#### Alternatives Under Consideration

There are no alternatives under consideration at this time. However, EEOC may make revisions to its proposal as a result of comments received.

#### Summary of Benefits

*Sectors Affected:* Employees of industries in which workers are exposed to reproductive hazards.

The Guidelines apply to employers as defined in § 701(j) of Title VII of the Civil Rights Act of 1964. The Guidelines will aid the agency in fulfilling its mandate under Title VII of the Civil Rights Act of 1964 to eliminate employment discrimination on the basis of sex.

#### Summary of Cost

*Sectors Affected:* Industries in which workers are exposed to reproductive hazards.

The Guidelines require employers to initiate research designed to produce evidence of the effect of the reproductive hazard as used in the employer/contractor's workplace. The Guidelines provide for the conducting of joint studies by employers. Also, if the employer/contractor does not have the capacity to conduct or sponsor the necessary research, the employer can request the Occupational Safety and Health Administration (OSHA) to

perform the research. The Commission believes that the cost of conducting such research will vary from employer to employer. The Commission is unable to place a dollar figure on the cost of such research. However, the Commission does believe that the benefits derived from carrying out its mandate to prohibit sex discrimination under Title VII of the Civil Rights Act of 1964 will outweigh any costs to be incurred by employers in conducting such research.

#### Related Regulations and Actions

None

#### Active Government Collaboration

In compliance with E.O. 12067 (3 CFR, 1978, Comp. p. 206), the Commission consulted with representatives of the Department of Labor, the Occupational Safety and Health Administration, and the Office of Federal Contract Compliance Programs.

#### Timetable

Public comment ends—Period June 1, 1980  
Regulatory Analysis—EEOC will not prepare

#### Available Documents

Copies of the Guidelines, published February 1, 1980, are available through the Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506. Comments may be reviewed from 9:30 a.m.—4:30 p.m. at the Equal Employment Opportunity Commission Library.

#### Agency Contact

Frederick D. Dorsey, Director,  
Office of Policy Implementation  
Equal Employment Opportunity  
Commission, 2401 E Street, N.W.,  
Washington, D.C., 20506  
(202) 634-7060

#### GENERAL SERVICES ADMINISTRATION

#### Administration Operations Division

#### Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Assistance (41 CFR Part 101-6.3)

#### Legal Authority

Rehabilitation Act of 1973, 29 U.S.C. § 794 E.O. 11914, 3 CFR, 1976 Comp., p. 117 40 U.S.C. § 486(c)

#### Reason for Including This Entry

The General Services Administration (GSA) has included this item because of the high level of public interest in

nondiscrimination against handicapped persons in federally assisted programs and activities.

#### Statement of Problem

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) prohibits discrimination against handicapped persons in all programs and activities receiving Federal assistance. E.O. 11914 designated the Department of Health, Education and Welfare (HEW) as the lead agency to coordinate government wide enforcement of § 504. HEW issued regulations (45 CFR Part 85) in 1978 which set standards, procedures and guidelines for other agencies to follow in issuing their own regulations. GSA's proposed regulation is intended to be consistent with the HEW standards and guidelines. It establishes the procedures GSA will use to enforce nondiscrimination against handicapped persons in programs and activities which receive Federal assistance under laws which GSA administers in whole or in part.

GSA's assistance typically consists of donation or sale below market price of surplus Federal property—land, buildings, historical records, vehicles, or supplies—to State and local governments and other public or charitable bodies. These recipients in turn use the property for a wide range of purposes, such as airports, parks, education, public health, public safety, and economic development. GSA makes over 50,000 grants of assistance and conveys approximately \$4 billion in surplus property to the States each year.

The proposed GSA regulation will require that applicants for assistance from GSA submit an assurance to GSA that the assisted program or activity will be offered on a nondiscriminatory basis, and will be accessible to the handicapped. Where the assistance is in the form of real property, the proposed regulation requires a covenant in the deed which would allow GSA to reclaim the property if the recipient's use is contrary to the nondiscrimination provisions. The proposed regulation requires recipients to evaluate the effectiveness of their nondiscrimination efforts and to set up a grievance procedure and encourages them to take remedial action on a voluntary basis. The requirement of nondiscrimination also applies to employment under federally assisted programs and activities.

#### Alternatives Under Consideration

There are no alternatives under consideration because HEW guidelines leave little room to vary these proposals. At an early stage in the development of