



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

Central files

Docket No. 50-293

JAN 08 1993

Citizens Urging Responsible Energy
ATTN: Mary C. Ott
Donald M. Muirhead
Post Office Box 2621
Duxbury, Massachusetts 02331

Dear Ms. Ott and Dr. Muirhead:

I have been asked to respond to your letters of December 20 and 28, 1992, to Chairman Selin regarding the shutdown of the Pilgrim Nuclear Power Station in October 1992, and other related matters. In your letter you stated that "many questions still remained unanswered" regarding the Pilgrim shutdown, after the Plymouth Nuclear Affairs Committee meeting that you attended on November 5, 1992.

I trust that the enclosed information fully addresses your questions with the Pilgrim shutdown, reactor vessel level instrumentation, and NRC policies with respect to radiation exposure and industry employment. Should you need additional information, please contact Mr. Gene Kelly of my staff at (215) 337-5183.

Sincerely,

Thomas T. Martin
Regional Administrator

Enclosure: Response to Questions

Attachments: 10 CFR Part 50.72
10 CFR Part 50.73
10 CFR Part 0

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ENCLOSURE

RESPONSE TO QUESTIONS FROM DECEMBER 20 AND 28, 1992 LETTERS

1. How many incident reports were filed with the NRC the weekend of October 24 & 25, 1992?

Boston Edison Company (BECo) made two event notifications to the NRC under the reporting requirements of 10 CFR Part 50.72 regarding the Pilgrim Nuclear Power Station during the weekend of October 24 & 25, 1992. The two event notification numbers were 24491 and 24494. The sequence of these numbers is assigned by the NRC Operations Center Duty Officer for calls, as received, from all licensees subject to NRC reporting requirements. BECo filed no other reports with the NRC during that weekend.

2. Please provide the log entry times when the containment was purged/or de-inerted?

On October 23, 1992, at 3:46 p.m., BECo began the process of purging or de-inerting the primary containment. Approximately 19 hours later at 10:45 a.m. on October 24, 1992, the reactor mode select switch was placed in the SHUTDOWN position. Pilgrim Technical Specification 3.7.A, Primary Containment, Section 5.b, states in part that de-inerting may commence 24 hours prior to achieving a shutdown condition.

3. Were any violations of NRC or Company technical specifications observed? If so, is your agency considering enforcement action?

The NRC knows of no violations of NRC requirements or Pilgrim Technical Specifications, either related to the above discussed plant shutdown or the two events reported to the NRC during the weekend of October 24 & 25, 1992.

4. What is the definition of a NRC "reportable event"?

As used in 10 CFR 50.73, Licensee Event Report System, the term "reportable event" refers to events, conditions, or operations that licensees must notify the NRC by submittal of a written report within 30 days after the discovery of an occurrence.

"Immediate notification," such as was performed by BECo during the weekend of October 24 and 25, 1992, refers to events, conditions, or operations that licensees must notify (by telephone) the NRC Operations Center. These notifications, which are required by 10 CFR Part 50.72, Immediate Notification Requirements for Operating Nuclear Power Plants, include both emergency and non-emergency events.

Copies of 10 CFR Part 50.72 and 50.73, which detail the specific events, conditions or operations that licensees must report to the NRC, are attached.

5. By definition, which events are assigned "Priority Attention Required" status on the Region I "Morning Report"?

In accordance with NRC Region I's internal procedures, all morning reports are labeled with the phrase "Priority Attention Required" to inform NRC offices (i.e., other regions or headquarters) of items that are of technical or general interest. "Morning reports," prepared daily, normally contain preliminary information on developments or events that just occurred. Although this internal communication system is not meant to duplicate other NRC information processes, morning reports may be issued to describe further an event that had been reported to the NRC under 10 CFR Part 50.72, if new information is available or clarifying information is warranted. However, such morning reports are not limited to just those events that are formally reportable under 10 CFR Part 50.72.

6. Were there any other observable means or recorded data to gauge how much larger the spike actually was?

No. The "spike" on the "B" wide range level channel that occurred at approximately 10:28 p.m. on October 24, 1992 at Pilgrim reached the upper range of the instrument, and was high enough to initiate the Group I containment isolation logic. There is, however, no reliable means of estimating how much higher the "spike" in the level signal was.

7. When and why was the Yarway rack removed from Pilgrim? Was the rack damaged by a fire in 1981?

The Yarway level instrumentation system was removed, and the reactor vessel level instrumentation reference columns were relocated outside the containment, during the 1987 refueling outage in response to NRC Generic Letter 84-23, "Reactor Vessel Water Level Instrumentation and BWRs." The relocation of the instrumentation reference columns was done to make them less susceptible to overheating because of high drywell temperatures that could occur following a design basis loss of coolant accident.

A fire did occur on February 24, 1981, in the vicinity of (above) the Yarway instrumentation rack located within the Reactor Building. No adverse impact or damage occurred to the Yarway instruments as evidenced by the relatively short duration (approximately two minutes) of the fire, and the fact that reactor operation was unaffected since power remained at 95 percent during the event. This event was described in a Licensee Event Report submitted by BECo to the NRC on June 16, 1981.

8. When the Augmented Off Gas (AOG) Treatment System is bypassed during shutdown, does it result in unfiltered venting?

No. With the AOG bypassed, effluent from the steam jet air ejectors would be filtered through high efficiency particulate air filters prior to discharge from the main stack. Also, for clarification purposes, the containment vent path discussed in Question No. 2 does not interface with the AOG system.

9. Was the AOG bypassed during the shutdown?

The AOG system was bypassed in accordance with Pilgrim station procedures during the normal course of the plant shutdown. On October 24, 1992, at approximately 3:00 p.m., with the reactor shut down, BECo operators appropriately bypassed the AOG system. This action was consistent with Pilgrim Technical Specification 3.8.F, Gaseous Effluent Treatment, which does not require the AOG system to be in service below 50 percent reactor power.

10. A growing body of medical evidence indicates that there is no safe level of radiation exposure. What is the NRC's philosophy on radiation health impact?

The NRC has based its radiation protection standards, 10 CFR Part 20, on the assumptions that: "(1) Within the range of exposure conditions usually encountered in radiation work, there is a linear relationship, without threshold, between dose and probability of stochastic health effects (such as latent cancer and genetic effects) occurring; (2) The severity of each type of stochastic health effect is independent of dose; and (3) Nonstochastic (non-random) radiation-induced health effects can be prevented by limiting exposures so that doses are below the thresholds for their induction." (Federal Register, Volume 56, No. 98, May 21, 1991). In adopting this position, the NRC requires licensees to implement a program of "as low as reasonably achievable."

The NRC examines studies purported to cast new light on this issue, and has recently examined epidemiological studies of radiation risks, as documented in NUREG/BR-0125, "Reviews of Recent Epidemiological Studies of Radiation Risks." The NRC concluded that none of these studies convincingly show any discernible effect of low-level radiation or provide any reason to believe that the NRC should revise its effluent control regulations.

11. When did Mr. Hudson leave the NRC? Was he terminated by your agency? Does the NRC have a policy with respect to industry employment?

Mr. Stephen Hudson was an NRC resident inspector at Nine Mile Point Nuclear Power Station from December 1982 through May 1986. Mr. Hudson voluntarily left the NRC on May 2, 1986, and was not terminated.

In your letter, you stated that "Mr. Hudson testified in a federal proceeding regarding his role in covering up a massive radioactive spill at the Nine Mile I nuclear plant in New York". We have no knowledge of any coverup of a "massive radioactive spill" at the Nine Mile Point Unit 1 facility. However, in August 1989, the NRC formed an Augmented Inspection Team to review Niagara Mohawk Power Corporation's use (since 1981) of the sub-basement of the Unit 1 Radwaste Building as a liquid radwaste holding facility. During that team inspection, Mr. Hudson (along with others) was interviewed by the NRC to ascertain the facts and events leading to the condition of the Radwaste Building.

The NRC does have a policy with respect to industry employment. The NRC's Code of Conduct is currently specified in 10 CFR Part 0 (attached), which includes restrictions on seeking future employment by present NRC employees, and on post-employment activities by former NRC employees. A copy of 10 CFR Part-0 is attached. On February 3, 1993, 10 CFR Part 0 will be replaced in large part by government-wide regulations regarding standards of conduct contained in 5 CFR Part 2635.

12. Has a violation been issued to Pilgrim for hiring S. Levy, Inc. to fix water level instrumentation problems? If not, why not?

No violations of NRC regulations or Pilgrim's license occurred with respect to the procurement and use of S. Levy, Inc. at Pilgrim. BECo properly established S. Levy, Inc. as an approved vendor in June 1992, pursuant to the provisions of the Boston Edison Quality Assurance Manual, prior to the procurement of services from this company.

UNITED STATES NUCLEAR REGULATORY COMMISSION
RULES and REGULATIONS

TITLE 10, CHAPTER 1, CODE OF FEDERAL REGULATIONS—ENERGY

§ 0.735-3(a)

**PART
0**

CONDUCT OF EMPLOYEES

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ANNEX A—CODE OF ETHICS FOR GOVERNMENT SERVICE (5 U.S.C. 7301)

Authority: Secs. 25, 151, 56 Stat. 925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 11222, 30 FR 8486, 3 CFR 1964-1965 COMP., p. 206; 5 CFR 735.104.
Sections 0.735-21 and 0.735-29 also issued under 5 U.S.C. 552, 553. Section 0.735-26 also issued under sec. 501, 502, Pub. L. 95-521, 92 Stat. 1864, 1867, as amended by sec. 1, 2, Pub. L. 96-28, 93 Stat. 76, 77 (18 U.S.C. 207).

Subpart A—General

§ 0.735-1 Policy.

(a) The personnel policy of the U.S. Nuclear Regulatory Commission states, in part, that:

The Atomic Energy Act requires the Commission to assure itself that the character, association and loyalty of workers in atomic energy are of a high

order. Conduct and self-discipline, both on and off the job, must measure up to unusual standards***.

(b) Section 735.101 of the Civil Service Commission regulations (5 CFR 735.101), issued pursuant to Executive Order 11222, May 8, 1965, states that:

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards***.

§ 0.735-2 Program objective.

(a) The program objective is to protect the interests of the public and employees by setting forth principles, practices, and standards governing conduct of employees in such a manner that they may be readily understood by the individuals involved and practicably administered by the NRC.

(b) It is expected that the provisions of this part will be observed and administered in a manner which is consistent with both their spirit and their letter.

(c) Of necessity, because of the nature of the criminal statutes and the subject matter involved, this part cannot deal with all of the problems which may arise with regard to the conduct, including conflicts of interest, of employees and former employees.

§ 0.735-3 Responsibilities and authorities.

(a) Employees shall:

(1) Comply with the statutes and the rules, standards of conduct, and other regulations set forth in this part.

(2) Consult the full text of applicable statutes as to whether an action in question may in any way violate the statutes.

PART 0 • CONDUCT OF EMPLOYEES

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(3) Be guided in all their activities by the Code of Ethics for Government Service (Annex A).

(4) Conduct themselves in such a manner as to create and maintain respect for the NRC and the U.S. Government and avoid situations which require or appear to require a balancing of private interests or obligations against official duties.

(5) Be mindful of the high standards of integrity expected of them in all their activities, personal and official.

(6) Not give or appear to give favored treatment or competitive advantage to any member of the public, including former employees of the NRC, appearing before them on their own behalf or on behalf of any nongovernmental interest.

(7) Recognize that violation of any of the instructions or statutes referred to in this part may subject them to disciplinary action by NRC in addition to the penalty prescribed by law for such violation.

(8) Discuss with their immediate supervisor, or counselor, as appropriate, any problem arising out of this part.

(c) The Executive Director for Operations assumes responsibilities assigned in §§ 0.735-21(b), 0.735-22(b), 0.735-23(d) and (e), 0.735-26(c) and (d), and 0.735-28.

(d) The Directors of Offices and Divisions. (1) Bring to the attention of appropriate contractors under their jurisdiction those provisions of this part (such as "Future Employment"; "Ex Parte Contracts"; "Assisting Former Employees"; "Gifts, Entertainment, and Favors"; "Cancellation of Contracts"; and others) which may affect the actions of a contractor and his employees in dealing with NRC employees.

(2) Report to the Office of Inspector General all complaints concerning fraud, graft, corruption, diversion of NRC assets by NRC employees or contractors, and misconduct of NRC employees; take action as a result of investigations; and report on action taken, as provided in NRC Manual Chapter 0702, "Notification and Investigation of Misconduct."

(5) Has available for review by employees and special Government employees, as appropriate, copies of laws, Executive Order 11222, NRC regulations, and pertinent Office of Personnel Management regulations and instructions relating to ethical and other conduct.

(6) Notifies employees and special Government employees at time of entrance on duty and periodically thereafter of the availability of counseling services under paragraph (h) of this section and how and where these services are available.

(f) The Director, Office of Personnel, assumes the responsibilities assigned in §§ 0.735-28(b) and 0.735-48.

(g) The Office of Inspector General investigate all questions of employees' conduct, fraud, etc., in NRC, in accordance with NRC Manual Chapter 0702.

(h) The General Counsel. (1) Is the counselor for NRC.

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(8) Report to the Director of their Office all allegations or indications of misconduct, including fraud, graft, corruption, and diversion of NRC assets by NRC or contract employees; however, when the exigencies of the circumstances dictate, employees may make such reports directly to the Office of Inspector and Auditor.

(3) Assume responsibilities assigned in §§ 0.735-21(b), 0.735-22(b), 0.735-23(d), 0.735-27, 0.735-28, and 0.735-40(b).

(e) The Director, Office of Personnel— (1) Provides a copy of this part to each employee and special Government employee, and to each new employee at the time of his or her entrance on duty.

(2) Serves as NRC's designee to the Office of Personnel Management on matters covered by this part.

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(b) Supervisors: (1) Inform themselves of any problems of their employees arising out of this part, consult with the cognizant NRC counselor as appropriate, and take prompt action to see that the problems, if they cannot be resolved, are referred to higher authority. (2) Relieve employees from assignments in accordance with § 0.735-22(a).

(2) Provides a copy of all revisions to each employee and special Government employee.

(3) Brings the provisions of this part to the attention of each employee and special Government employee annually, and at such other times as circumstances warrant.

(4) Assures the availability of counseling services under paragraph (h) of this section to each employee and special Government employee.

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(3) Designates deputy counselors.

(4) Coordinates counseling services, and assures that counseling and interpretations on questions of conflicts of interest and other matters covered by the part are available to deputy counselors.

(5) Carries out the specific responsibilities assigned in §§ 0.735-27, 0.735-28, and 0.735-49(b).

§ 0.735-4 Definitions.

(a) "Commission" means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974, 88 Stat. 1233.

(b) "NRC" means the agency established by Title II of the Energy Reorganization Act of 1974 comprising the members of the Commission and all offices, employees, and representatives authorized to act in any case or matter, whether clothed with final authority or not.

(c) "Employee" means an NRC officer or employee and, insofar as statutory and Executive order restrictions are concerned, a member of the Commission, but does not include (unless otherwise indicated) a special Government employee, or an employee of another Government agency assigned or detailed to the NRC.

(d) "Former employee" means a former NRC officer or employee as defined in paragraph (c) of this section, a former special Government employee, as defined in paragraph (e) of this section, a former member of the Nuclear Regulatory Commission, a former member of the Atomic Energy Commission, and a former officer or employee of the Atomic Energy Commission.

(e) "Special Government employee" means an officer or employee of the NRC who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a fulltime or intermittent basis. The term includes NRC consultants, experts, and members of advisory boards, but does not include a member of the Uniformed Services.

(f) "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(g) "Organization," as used in this part in connection with 18 U.S.C. 208, means

universities, foundations, nonprofit research entities and similar nonprofit organizations, States, counties and municipalities and subdivisions thereof as well as business organizations.

(h) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(i) [Deleted 40 FR 8774.]

§ 0.735-5 Basic requirements.

(a) *Applicability.* The provisions of this part apply to all current and former NRC employees and special Government employees. Except for § 0.735-28, the provisions of this part are not applicable to employees of other Government agencies assigned or detailed to the NRC. Employees of other Government agencies assigned or detailed to the NRC are required by § 0.735-28 to furnish a statement of employment and financial interest if they are performing duties of a position specified in § 0.735-28(a). However, an employee of another Government agency assigned or detailed to the NRC is not relieved of his responsibilities under regulations or code of conduct prescribed by his parent agency.

(b) *Cancellation of contracts.* The Commission reserves the right to declare void, in accordance with law, any contract negotiated or administered in violation of the provisions of NRC regulations, or statute.

(c) *Scope of part.* This part incorporates the statutes, the instructions and specific procedures, pertaining to an employee's conduct.

(d) *Construction of criminal or civil statutes.* The paraphrased version of any criminal or civil statute in this part shall not constitute a binding interpretation thereof upon the NRC or the Federal Government.

(e) *Certifications.* Certifications called for by §§ 0.735-23(e) and 0.735-26(c) and (d), shall be submitted for publication in the FEDERAL REGISTER.

(f) *Disciplinary and other remedial action.* (1) A violation of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(2) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

(g) *Presidential appointees.* Presidential appointees covered by section 401(a) of Executive Order 11222 shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject

matter of which is devoted substantially to the responsibilities, programs, or operations of NRC, or which draws substantially on official data or ideas which have not become part of the body of public information.

§ 0.735-6 National emergency application.

The provisions of this part continue in effect without modification in a national emergency.

§ 0.735-8 Information collection requirements: OMB approval.

The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). In § 0.735-28, OMB has approved the information collection requirements contained in Form NRC-443, under control number 3150-0025.

Subpart B—Conflict of Interest Restrictions

§ 0.735-20 General.

(a) Part I, "Policy," of Executive Order 11222 states:

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

(b) The elimination of conflict of interest in the Federal service is one of the most important objectives in establishing general standards of conduct. A conflict of interest situation may exist where a Federal employee's private interests, usually of an economic form, conflict, or raise a reasonable question of conflict with his public duties and responsibilities. The potential conflict is of concern whether it is real or only apparent.

(c) An employee, including special Government employee, shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or (2) engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(d) An employee, including a Special Government employee, is not precluded from having a financial interest or engaging in financial transactions to the

same extent as a private citizen not employed by the Government so long as it is not prohibited by the law, Executive Order 11222, Office of Personnel Management regulations, or the regulations in this part.

(e) Certain provisions in 18 U.S.C. 201-209, dealing with conflicts of interest in Federal employment are referred to in §§ 0.735-21 through 0.735-27.

§ 0.735-21 Acts affecting a personal financial interest (based on 18 U.S.C. 208).

(a) *General.* Except as permitted by paragraphs (b), (c), and (d) of this section, no employee, or special Government employee, shall participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to the employee's knowledge, the employee, the employee's spouse, minor child, partner, organization in which the employee is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment, has a financial interest upon which the outcome of the particular matter will have a direct and predictable effect.

(b) *Granting of ad hoc exemptions.* (1) If an employee, or special Government employee, desires to request an exemption from the prohibitions of paragraphs (a) and (e) of this section, the employee shall fully inform the appropriate agency official under paragraph (b)(6) of this section in writing of the nature and circumstances of the particular matter, the financial interests involved, and any other information relevant and material to the decision to be made under paragraph (b)(2) of this section, and shall request a written determination in advance as to the propriety of the employee's participation in such matter.

(2) If, after examining the information submitted and consulting with the Office of the General Counsel, the appropriate agency official under paragraph (b)(6) of this section determines that the employee, or special government employee, does have a conflict of interest, the official may relieve the employee from participation in the particular matter and so advise the employee in writing; or the appropriate agency official under paragraph (b)(6) of this section may approve the employee's participation in such matter upon advising the employee in writing that

the appropriate agency official has determined that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, and that no provision of law and no regulation in this part would appear to be violated by the employee's participation in the particular matter.

(3) In the written decision, the appropriate agency official under paragraph (b)(6) of this section shall discuss the following factors as appropriate, and any other relevant and material information:

(i) The nature of the financial interest, an employment interest generally being deemed more substantial than an interest of another kind;

(ii) The size of the interest, both in absolute terms and in relation to the employee's other salary or liquid assets, and, in the case of any class of shares, bonds, or other security interests, the size of the interest in relation to the dollar value of the outstanding shares, bonds, or other security interests in the said class; and

(iii) The nature and significance of the services the employee would render to the agency in the particular matter; provided, however, that if the request for an exemption is being made by a special Government employee, the provisions of paragraph (d) of this section will apply.

(4) A copy of each request and response made under the provisions of paragraphs (b) (1) and (2) of this section as a matter of record will be forwarded to the Office of the General Counsel and maintained there. Copies of all documents referred to in paragraphs (b) (1) and (2) of this section will be filed by the holders thereof in their confidential files.

(5) Whenever it can be reasonably anticipated that there will be a need to invoke these procedures repeatedly, and where it also appears that a burden would be placed on the NRC thereby, consideration should be given by the appropriate official under paragraph (b)(6) of this section to dismissal or transfer of the employee, or special Government employee, to another position where the problems will not arise, or to the elimination of the outside interest creating the difficulty. It is expected that the employee or special Government employee concerned will take the initiative in resolving any problem in this area.

(6) Requests for exemptions under this paragraph will be submitted to the appropriate agency official, who is to be determined as follows:

(i) For employees in offices reporting to the Executive Director for Operations, the office director;

(ii) For office directors in offices reporting to the Executive Director for Operations and for members of the staff

of the Executive Director for Operations, the Executive Director for Operations;

(iii) For employees in offices reporting to the Commission, the office director;

(iv) For employees of the Advisory Committee on Reactor Safeguards (ACRS), the Atomic Safety Licensing Board Panel (ASLBP), or the Chairman of the ACRS or ASLBP, respectively;

(v) For the Executive Director for Operations, members of the ACRS ASLBP or the directors of offices reporting to the Commission, the Chairman of the Commission, except in cases involving policy formulation, when the Commission shall decide whether to grant the exemption; and

(vi) For employees in an individual Commissioner's office, that Commissioner.

(c) *Exemption of remote or inconsequential financial interests.*—(1) In accordance with the provisions of 18 U.S.C. 208(b)(2) the NRC has exempted the following financial interests from paragraph (a) of this section and from the requirements of paragraph (b) of this section, upon the ground that such interests are too remote or too inconsequential to affect the integrity of its employees' services:

(i) Financial interests in an enterprise in the form of shares in the ownership thereof, including preferred and common stocks whether voting or nonvoting, and warrants to purchase such shares;

(ii) Financial interests in an enterprise in the form of bonds, notes, or other evidence of indebtedness;

(iii) Investments in State or local government bonds and investments in shares of a widely held diversified mutual fund or regulated investment company, except holdings in mutual investment funds or regulated investment companies dealing primarily in atomic energy stocks;

Provided, That in the case of subdivisions (i) and (ii) of this subparagraph:

(A) The total market value of the financial interests described in said subdivisions with respect to any individual enterprise does not exceed \$1,000; and

(B) the holdings in any class of shares, or bonds, or other evidences of indebtedness, of the enterprise do not exceed 1 percent of the dollar value of the outstanding shares, or bonds or other evidences of indebtedness in said class.

(2) Where a person covered by this exemption is a member of a group organized for the purpose of investing in equity or debt securities, the interest of such person in any enterprise in which the group holds securities shall be based upon said person's equity share of the holdings of the group in that enterprise.

(3) For purposes of subparagraph (1) of this paragraph, computations of dollar-value of financial interests in corporation shall be by means of:

(i) Market value in the case of stocks listed on national exchanges; or

(ii) Over-the-counter market quotations as reported by the National Daily Quotation Service in the case of unlisted stocks; or

(iii) By means of net book value (i.e. assets less liabilities) in the case of stocks not covered by the preceding two categories.

With respect to debt securities, face value shall be used for valuation purposes.

(4) The dollar value and percentage of financial interests listed above in subparagraph (1) of this paragraph shall be computed as of the date on which the employee first participated personally and substantially in any particular matter, within the meaning of 18 U.S.C. 208(a), relating to the enterprise concerned. The dollar value and percentage so computed shall govern during the entire period that the employee participates in the particular matter unless, after the aforesaid date of computation, he, or other person or organization referred to in paragraph (a) of this section, acquires an additional interest in the same enterprise. In the event of such subsequent acquisition, the dollar value and percentage shall be recomputed as of the date of such acquisition. If, in such case, the dollar value and percentage computed exceeds the limitations described in subparagraph (1) of this paragraph, the general exemption provided therein shall no longer be applicable and an ad hoc exemption must be sought in accordance with paragraph (b) of this section.

(d) *Special exemption for special Government employees.* Federal Personnel Manual Chapter 735, Appendix C provides that a special Government employee should in general be disqualified from participating as such in a matter of any type the outcome of which will have a direct and predictable effect upon the financial interests covered by 18 U.S.C. 208. However, that chapter states that the power of exemption may be exercised in this situation "if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization." It is the policy of the Nuclear Regulatory Commission in conformity with the foregoing, to exercise the power of exemption pursuant to 18 U.S.C. 208(b) in such situations. The authority to grant such an exemption is delegated to the NRC official responsible for appointment or designation of the particular consultant or advisor. This exemption is noted on the form NRC-443 by the appointing official for the consultant or advisor concerned, by a statement that the employee "need not be precluded from rendering general advice in situations where no preference or advantage over others might be gained by any particular person or organization."

(e) *Vested pension interests.* Except as permitted by paragraph (b) of this section, no employee shall participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter affecting the financial interest of a company in which the employee holds a vested pension interest. The appropriate agency official under paragraph (b)(6) of this section is not to grant an exemption pursuant to paragraph (b) of this section unless the Office of the General Counsel has reviewed the pension plan and made a determination that the pension interest is not so substantial as to be deemed likely to affect the integrity of the employee's services to the Government, in that as an NRC employee the individual cannot in any fashion influence the amount of the pension.

§ 0.735-22 Future employment (based on 18 U.S.C. 208).

(a) Solicitation, negotiation, or arrangements for private employment by an employee who is acting on behalf of the NRC in any particular matter in which the prospective employer has a financial interest are prohibited. With the authorization of his supervisor, an employee may be relieved of any assignment which, in the absence of such relief, might preclude such solicitation, negotiation, or arrangements.

(b) No employee shall undertake to act on behalf of the NRC in any capacity in a matter that to his knowledge affects even indirectly any party outside the Government with whom he is soliciting, negotiating, or has arrangements for future employment, except pursuant to the authorization of the Commission, its designee, or the Executive Director for Operations, as appropriate, after full disclosure. (See § 0.735-21.)

§ 0.735-23 Activities of officers and employees in claims against and other matters affecting the Government (based on 18 U.S.C. 205).

(a) No employee shall otherwise than in the proper discharge of his official duties:

(1) Act as agent or attorney for prosecuting any claim against the United States, or receive any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) Act as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application,

request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest.

(b) A special Government employee shall be subject to paragraph (a) of this section only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That subparagraph (2) of this paragraph shall not apply in the case of a special Government employee who has served in such department or agency no more than 60 days during the immediately preceding period of 365 consecutive days.

(c) Nothing in paragraph (a) of this section prevents an employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

(d) Nothing in paragraph (a) of this section prevents an employee from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Commission, its designee, the Executive Director for Operations, or the head of an office or division, as appropriate, approves.

(e)(1) Nothing in paragraph (a) of this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States when presented by the NRC provided that the Executive Director for Operations shall certify in writing that the national interest so requires. Such certification shall be submitted for publication in the FEDERAL REGISTER.

(2) The special Government employee shall immediately notify the NRC when so designated to act as agent or attorney by his private employer.

(f) Nothing in paragraph (a) of this section prevents an employee from giving

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testimony under oath or from making statements required to be made under penalty for perjury or contempt.

§ 0.735-24 Receiving salary from source other than the U.S. Government (based on 18 U.S.C. 209).

(a) No employee shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services as an employee of the NRC from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality.

(b) Nothing in paragraph (a) of this section prevents an employee of the NRC from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) Paragraph (a) of this section does not apply to a special Government employee or to an employee of the Government serving without compensation, whether or not he is a special Government employee.

(d) Paragraph (a) of this section does not prohibit acceptance of contributions, awards, or other expenses for training or to attend meetings under the terms of chapter 41 of title 5, United States Code. See NRC Appendix 4150.

§ 0.735-25 Compensation to employees in matters affecting the Government (based on 18 U.S.C. 203).

(a) No employee shall, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receive or agree to receive, or ask, demand, solicit, or seek, any compensation for any services rendered or to be rendered either by himself or another in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission.

(b) A special Government employee shall be subject to paragraph (a) of this section only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That subparagraph (2) of this paragraph shall not apply in the case of a special Government employee who has served in such

department or agency no more than 60 days during the immediately preceding period of 365 consecutive days.

§ 0.735-26 Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners of current officers and employees (based on 18 U.S.C. 207).

(a) No employee, after terminating NRC employment, shall knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to:

(1) any department, agency, court, courtmartial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(3) in which the individual participated personally and substantially as an employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed.

(b)(1) No employee shall, within two years after terminating NRC employment, knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to:

(i) any department, agency, court, courtmartial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employer thereof, and

(ii) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(iii) which was actually pending under the individual's official responsibility as an employee within a period of one year prior to the termination of such responsibility.

(2) No employee shall, within two years after terminating NRC employment, as specified in paragraph

(d) of this section, knowingly represent, or aid, counsel, advise counsel or assist in representing any other person (except the United States) by personal presence at any formal or informal appearance before:

(i) any department, agency, court, courtmartial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employer thereof, and

(ii) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(iii) in which the individual participated personally and substantially as an employee.

(c) No employee, other than a special Government employee who serves for less than sixty days in a given calendar year, having been employed as specified in paragraph (d) of this section, shall, within one year after termination of NRC employment, knowingly act as agent or attorney for, or otherwise represent, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of anyone other than the United States, to:

(1) the Nuclear Regulatory Commission, and

(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

(3) which is pending before the Commission or in which the Commission has a direct and substantial interest.

(d)(1) Paragraph (c) of this section applies to a person employed:

(i) at a rate of pay specified in or fixed according to Subchapter II of Chapter 53 of Title 5, United States Code, or a comparable or greater rate of pay under other authority, or

(ii) in a position which involves significant decision-making or supervisory responsibility, as designated by the Director of the Office of Government Ethics, in consultation with the Commission. Only positions for which the basic rate of pay for GG-17 of the General Schedule prescribed by section 5332 of Title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978 may be designated.

31 FR 1567

32 FR 1358

33 FR 4502

21 FR 1182

46 FR 5175

46 FR 5175

(2) The prohibition of paragraph (c) of this section shall not apply to appearances, communications, or representation by a former employee, who is:

- (i) an elected official of a State or local government, or
- (ii) whose principal occupation or employment is with (A) an agency or instrumentality of a State or local government, (B) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (C) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

(e) The prohibitions of paragraphs (a), (b), and (c) of this section shall not apply—

(1) With respect to the making of communications solely for the purpose of furnishing scientific or technological information if the following procedures are observed:

(i) The former employee proposing to make the communication solely for the purpose of furnishing scientific or technological information receives prior written authorization from the Executive Director for Operations. The individual shall provide to the Executive Director for Operations a written statement that indicates he or she is a former employee subject to post-employment restrictions under this section, that briefly summarizes the content of the proposed communication, that describes his or her involvement, if any, as an NRC employee on the matter to be discussed, and that certifies the communication he or she desires to make is solely for the purpose of furnishing scientific or technological information; and

(ii) The Executive Director for Operations before deciding whether to authorize the communication shall consult with the counselor or deputy counselor. The primary factor to be considered by the Executive Director for Operations is whether receipt of the scientific or technological information would further the agency's mission.

(2) If the Commission, in consultation with the Director of the Office of Government Ethics, makes a certification published in the Federal Register that the former employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such

qualifications, and that the national interest would be served by the participation of the former officer or employee. The Commission under this provision may authorize communications that are not limited to transmission of scientific or technological information.

(f) A partner of an NRC employee, including a special government employee, shall not act as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or District of Columbia is a party or has a direct and substantial interest, and in which such employee participates or has participated personally and substantially as an employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility.

(g) Nothing in this section shall prevent a former employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

(h) The prohibition contained in paragraph (c) of this section shall not apply to appearances or communications by a former employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former employee from making or providing a statement, which is based on the former employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

(i) If the Commission finds, after notice and opportunity for a hearing, that the former employee violated paragraph (a), (b), or (c) of this section, the Commission may prohibit that person from making on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, the Commission on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. The Commission's procedures for

implementing this subsection are contained in NRC Manual Chapter 4124.

(j) The Office of Personnel Management has promulgated detailed regulations explaining and interpreting the post-employment regulations set forth in this section. See 5 Code of Federal Regulations Part 737.

§ 0.735-27 Appearances by former employees before NRC.

When a former employee proposes to act as agent or attorney before an NRC office on behalf of anyone other than the United States in connection with any of the matters cited in § 0.735-26, he is expected to make known to the appropriate official of the NRC office the fact of his former assignment with NRC. The head of this office or division or employee before whom the former employee appears, before transacting business with the former employee or authorizing employees under his jurisdiction to transact any business with the former employee, shall call the former employee's attention to the restrictions and penalties contained in 18 U.S.C. 207. No NRC official or employee, except the General Counsel, shall offer to the former employee an interpretation of 18 U.S.C. 207 as applied to the situation at hand.

§ 0.735-28 Confidential statements of employment and financial interests.

(a) *Categories of employees required to submit statements.* The following employees shall submit confidential statements of employment and financial interest prepared in accordance with paragraph (c) of this section. These employees have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts of interest situation, to protect the integrity of the government, and to carry out the purposes of the federal laws, executive orders and regulations pertaining to conflicts of interest.

(1) All employees paid at the levels of GG-13, GG-14, or GG-15.

(2) All contracting officers in the Office of Administration, and all attorneys in the Office of the General Counsel (including those employees being paid below the GG-13 level).

(3) All special Government employees except those who have worked 60 days or more in the previous calendar year and were paid during that period at a level of GG-16 or above, or an equivalent thereto.

(b) *Notice of employees of time and place to submit statements.* Upon

commencing NRC employment, the Office of Personnel will provide all employees covered by the reporting requirement with a copy of the statement form. Each employee covered by the reporting requirement shall submit his statement to the head of his office not later than 30 days after his entrance on duty. Statements of special Government employees shall be submitted prior to appointment. Each regular and special Government employee covered by the reporting requirement shall submit to the head of his office a supplementary annual statement by May 15 of each year. The information provided in this annual supplement should reflect the individual's interests as of April 30. Notwithstanding the filing of the report(s) required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or this Part 0.

(c) *Preparation of statement.* Statements shall be prepared in accordance with the following:

(1) *Statement Form.* The forms prescribed by NRC are:

Regular Government employees—Form NRC 269.

Special Government employees—Form NRC 443.

(2) *Statement content*—(i) *Interests of employee's relatives.* The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee and must be reported. For the purpose of this paragraph, "member of an employee's immediate household" means full-time residents of the employee's household.

(ii) *Information not known by employees.* If any information required to be included on the statement or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information on his behalf, and shall report such request in Part IV of Form NRC 259 or item 16b. of Form NRC 443.

(iii) *Information not required to be submitted.* A statement or supplementary statement need not contain the following:

(A) Any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement.

(B) Precise amounts of financial interests, indebtedness, or value of real property. The employee may, however, at a later time be required to reveal precise amounts if the NRC needs that information in order to carry out its responsibilities under applicable laws and regulations.

(C) Remote or inconsequential financial interests, as set forth in § 0.735-21(c).

(D) For special Government employees: Those financial interests which are determined by the official responsible for such employee's appointment as not to be related either directly or indirectly to the duties and responsibilities of said employee.

(d) *Reviewing statements and reporting conflicts of interest.*

(1) The employee shall prepare the statement in duplicate, retain one copy, and submit one copy to the head of his office.

(2) The office head, in reviewing the statement, shall assess it for conflicts or the appearance of conflicts of interest in the context of the employee's assigned duties and responsibilities in the NRC.

(3) If the office head desires advice and guidance, he may discuss the statement with the counselor or appropriate deputy counselor.

(4) The office head shall discuss with the employee and point out any aspects of the statement which give rise, in the office head's opinion, to questions of conflict or of appearance of conflict. (The office head shall not take, or direct the employee to take, any action with respect to such conflict without first seeking the advice of the counselor or appropriate deputy counselor.)

(5) The office head shall in all cases record his opinion as to the presence or absence of a conflict on the statement and forward same to the NRC counselor or deputy counselor.

(6) The NRC counselor or deputy counselor shall review the statement, and discuss any questions with the employee and/or his respective office head.

(7) If the NRC counselor or deputy counselor believes that the statement evidences no question of conflict of interest, he shall record his opinion on the statement, and notify the office head.

(8) If the NRC counselor or deputy counselor believes there is a question of conflict of interest, he shall return the statement to the office head with his opinion recorded thereon. (The counselor or deputy counselor shall make his services available to the office head and employee involved to assist in effecting a resolution of any conflict or appearance of conflict.) The reviewer shall report to the counselor or deputy counselor the results of endeavors to effect resolution of the conflict at the employee-office head level, which results shall be recorded on the employee's statement and submitted to the counselor or deputy counselor for review and approval.

(9) When a statement submitted or information from other sources indicates a conflict between the interests of an employee and the performance of his service for the NRC and when the conflict or appearance of conflict is not resolved by the head of the employee's office, or the counselor or deputy counselor, the information concerning the conflict or appearance of conflict shall be reported to the Commission, or the Executive Director for Operations, as appropriate. The employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(10) When, after consideration of the explanation of the employee provided for in paragraph (d)(9) of this section, the Commission, or the Executive Director for Operations, as appropriate, decides that remedial action is required, immediate action to end the conflict or appearance of conflict of interest shall

be taken. Remedial action may include, but is not limited to:

(i) Changes in assigned duties;
(ii) Divestment by the employee of his conflicting interest;
(iii) Disciplinary action; or
(iv) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations. Disciplinary remedial action with respect to an employee of another Government agency assigned or detailed to the NRC shall be effected only by the parent agency.

(11) Upon completion of processing, the statement shall be filed in the office of the counselor or deputy counselor, in a special file maintained for that purpose. An NRC office may request a copy of a statement from the counselor or deputy counselor. *Provided*, That it is required for purposes of carrying out responsibilities under this part.

(12) The required supplementary statements shall be processed in the same manner as an initial statement.

(e) *Confidentiality of employees' statements.* NRC shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the NRC counselor, deputy counselor(s), and those office heads to whom reports are to be submitted (including those employees specifically designated by them to assist in the review as may be necessary) are authorized to review the statements as provided in this section. The foregoing employees are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. NRC shall not disclose information from a statement except in accordance with procedures set forth in paragraph (d) of this section, or as the Commission, or the Executive Director for Operations, as appropriate, or the Office of Personnel Management shall determine for good cause shown.

(f) *Effect of employee's statements on other requirements.* The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee or the absence of any requirement that an employee submit such a statement does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

46 FR 31715

(g) Availability of review. Any employee who believes that his position has been improperly included under this section as one requiring the submission of a statement of employment and financial interests may submit a grievance. A non-bargaining unit employee must use the grievance procedure in NRC Manual Chapter 4157 for review of the complaint. A bargaining unit employee must use the grievance procedure negotiated with the National Treasury Employees Union.

50 FR 25697

§ 0.735-28a Financial disclosure reports under the Ethics in Government Act.

Commissioners, employees and special government employees paid at or above the grade 16 level, and employees whose positions are excepted from the regular competitive appointment process by reason of being of a confidential or policymaking character (unless otherwise excluded by the Office of Government Ethics) shall file public financial disclosure reports (SF 278) in accordance with the requirements of the Ethics in Government Act and regulations of the Office of Government Ethics, 5 CFR Part 734. The employees shall submit their completed forms to the Office of the General Counsel for review. The General Counsel's office shall place the form in the Commission's Public Document Room.

50 FR 26403

§ 0.735-29 Restriction against ownership of certain security interests by Commissioners, certain staff members and other related personnel.

(a) No Commissioner or employee, including special Government employees who are members of the Advisory Committee on Reactor Safeguards, the Advisory Committee on Nuclear Waste, the Atomic Safety and Licensing Board Panel who occupies a position at or above GS-13 or its equivalent, shall own any stocks, bonds, or other security interests issued by any entity falling within the categories set forth in paragraph (b)(1) of this section. This prohibition also applies to employees who occupy positions below the GS-13 level that fall within occupational codes designated by the Commission. The restrictions set forth in this section apply to spouse, minor child, or other members of the immediate household of a Commissioner, employee, or special Government employee. In cases where the entity covered by the prohibition is a subsidiary of another corporation, the prohibition extends to the parent company.

50 FR 25697

(b) The Commission will publish at least once each year a list of stocks, bonds, and other security interests which employees covered by this section may not own.

34 FR 41422

(1) These are stocks, bonds, or other security interests issued by:

(i) Publicly or privately owned utilities which have filed an application with the Commission requesting an early site review, or seeking authorization to construct or operate a facility for the generation of electric energy by means of a nuclear reactor and those utilities which have received a construction permit or an operating license from the Commission that is currently effective.

(ii) State or local governments, if the primary purpose of the security is to finance the construction or operation of a nuclear reactor.

(iii) Companies manufacturing or selling nuclear power or test reactors.

(iv) Architectural-engineering companies that have been engaged to provide services relating to a nuclear facility by an applicant for a construction permit or an applicant for an operating license, and architectural-engineering companies which have filed a standard reference design that is under Commission review or has been approved by the Commission and is currently effective.

(v) Companies licensed by the Commission to mill, convert, enrich, fabricate, store, or dispose of source or special nuclear material, or applicants for such licenses, that are designated by the Executive Director for Operations, after consultation with the Office of the General Counsel, because they are or will be substantially engaged in such nuclear fuel cycle or disposal activities.

32 FR 11026

(2)(i) An individual covered by this section who owns securities described in paragraph (a)(1) of this section shall dispose of them no later than 365 days after the entities first appear on the list described in paragraph (a) of this section. Notwithstanding the provisions of § 0.735-21(c), no employee may participate personally and substantially in a particular matter affecting any entity that appears on the list as long as the employee or his spouse, minor child, or other members of his immediate household owns the security interest.

(ii) An individual newly employed by NRC who is covered by this section shall dispose of any securities described in paragraph (a)(1) of this section that the employee may own no later than 30 days after his entrance on duty and within the same period shall ensure and sign a certification that neither the employee nor any individual who is covered by this section through relationship with him owns any securities described in that paragraph.

(c) Each individual employed by NRC who is covered by this section shall each year sign either (1) a certification that neither he nor any individual covered by this section through relationship with him owns any securities described in paragraph (a)(1) of this section or, if he or any such individual in fact owns securities therein

44 FR 41422

described, (2) a certification identifying them, disclosing how and when they were acquired and stating approximately when they will be disposed of.

(d) Securities described in paragraph (b)(1) of this section that are acquired by an individual who is covered by this section through gift, inheritance or other similar involuntary manner shall be disposed of within a reasonable time.

(e) The Commission may exempt an employee from the restrictions of this section where divestiture of the stock, bond, or other security interest is determined to be inequitable by the Commission.

32 FR 13650

Subpart C—Other Restrictions Imposed by Statute on Conduct of Employees

§ 0.735-30 Description of statutory provisions.

Each employee has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as an employee of the NRC and the Government. Certain of these statutes are referred to in §§ 0.735-21–0.735-27. Attention of employees is also directed to the following statutory provisions:

(a) The prohibitions contained in the following sections of the Atomic Energy Act of 1954, as amended: Section 27 "Violation of Specific Sections"; Section 223, "Violation of Sections Generally"; Section 224, "Communication of Restricted Data"; Section 225, "Receipt of Restricted Data"; Section 226, "Tampering With Restricted Data"; and Section 227, "Disclosure of Restricted Data" (42 U.S.C. 2272 through 2277).

(b) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).

(c) The prohibition against the disclosure of confidential information (18 U.S.C. 1905).

(d) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(e) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(f) The prohibition against proscribed political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608. (See NRC Manual Chapter 4122, "Political Activity.")

(g) The prohibition against bribery of public officials and witnesses (18 U.S.C. 201).

(h) The prohibition against acceptance of solicitation to obtain appointive public office (18 U.S.C. 211).

(i) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). (See also NRC Manual Chapter 4121, "Oath of Office" and NRC Manual Chapter 4164, "Labor-Management Relations Program for Federal Employees.")

(j) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(k) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(l) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(m) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(n) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(o) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071). (See also NRC Appendix 0230, "Records Disposition.")

(p) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(q) The prohibition against embezzlement of Government money or property (18 U.S.C. 641). (See also NRC Manual Chapter 5201, "Personal Property Management.")

(r) The prohibition against failing to account for public money (18 U.S.C. 643).

(s) The prohibition against an employee's private use of public money (18 U.S.C. 653).

(t) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(u) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(v) The prohibition against making false entries in official records with intent to defraud or making false reports concerning moneys and securities with such intent (18 U.S.C. 2073).

(w) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(x) The Code of Ethics for Government Service (5 U.S.C. 7301).

Subpart D--Restrictions Imposed by NRC Administrative Decision on Conduct of Employees

§ 0.735-40 Outside employment and other outside activity.

(a) There is no general prohibition against employees engaging in outside employment or other outside activity; except that no employment or activity may be undertaken which is not compatible with the full and proper discharge of the duties and responsibilities of the employee's Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interests;

(2) Acceptance of any employment, fee, compensation, or payment of expense, from (i) A Commission licensee; (ii) an applicant for Commission license; (iii) an organization directly engaged in activities in the commercial nuclear field; (iv) a Commission contractor; (v) a Commission supplier; (vi) holder of a license issued by a State pursuant to an agreement between the Commission and the State; (vii) a trade association which represents clients concerning nuclear matters; or (viii) a law firm or other organization which is participating in an NRC proceeding or which regularly represents itself or clients before the NRC, unless written authorization is received pursuant to § 0.735-40(b). Ordinarily, an employee will be authorized to serve as an instructor at an academic institution which holds a Commission license, or to engage in other proposed activities of a similar character; or

(3) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) In any case in which there is a question as to the propriety of outside employment in which an employee proposes to engage, or where prior written authorization is required pursuant to § 0.735-40(a)(2), the employee's office or division head shall prepare and transmit the following information to the appropriate individual(s) specified in paragraph (f) of this section: (1) Name and job title of the employee involved; (2) A brief summary of the employee's official NRC duties; (3) A brief description of the proposed employment or outside activity, including the compensation to be received; (4) The name and nature of the business of the employing individual or organization; (5) His views whether the outside employment or activity should be authorized.

(c) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(d) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, Executive Order 11222, Office of Personnel Management regulations, or the regulations in this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Executive Director for Operations has given written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(e) Except as allowed for training or to attend meetings under section 4111 of title 5, United States Code, and Executive Order 10800, no employee shall accept a fee from an outside source on account of a public appearance, a speech, or lecture, if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties of the employee, if the public appearance, the speech, or the lecture was made during official working hours, or if travel for the purpose of the public appearance, speech, or lecture was made at Government expense. In addition, no employee shall accept a fee for the preparation, publication, or review of an article, story, or book if it was prepared during official working hours and/or was a part of the official duties of the employee.

(f) Employees of offices reporting to the Commission through the Executive Director for Operations must receive the written authorization of the Executive Director for Operations before engaging in activities covered by paragraphs (a)(2) and (b) of this section. The Executive Director for Operations before making his decision shall consult with the head of the employee's office or division and with the counselor or deputy counselor. Employees of boards, panels, and offices reporting directly to the Commission must receive the written authorization of the head of their office before engaging in activities covered by Paragraphs (a)(2) and (b) of this section. The head of the employee's office before making his decision shall consult with the counselor or deputy counselor.

(g) Bona fide reimbursements for expenses of travel and such other necessary subsistence may be accepted if (1) It is not prohibited by paragraph (a) of this section, (2) if reimbursement from the government is not received; and (3) it is not proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967, or otherwise prohibited by law. Questions concerning application of the Comptroller General's decision should be referred to the counselor. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

(h) An employee is not precluded by this § 0.735-40 or § 0.735-42 from:

(1) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given

by a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service, or civic organization.

§ 0.735-41 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 0.735-40(d), directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public. See also section 68a of the Atomic Energy Act of 1954, 42 U.S.C., section 2098(a), "Public and acquired lands," which provides as follows:

a. No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made, and subsequent to August 30, 1954, made such location, entry, or settlement, or caused the same to be made for his, or its, or their benefit.

§ 0.735-42 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) or (e) of this section, an employee should not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with NRC;

(2) Conducts operations or activities that are regulated by NRC or is an applicant for a license from NRC; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his official duty.

(b) The following exceptions are authorized as being necessary and appropriate in view of the nature of the NRC's work and the duties and responsibilities of its employees:

(1) When the circumstances make it clear that it is obvious family or personal

relationships (such as those between the parents, children, or spouse of the employee and the employee) rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars and other items of nominal intrinsic value; and

(5) Acceptance of transportation not inconsistent with the provisions of paragraph (c) of this section.

(6) Acceptance of food, lodging, and transportation from a prospective employer incident to travel required for a bona fide job interview if—

(i) The employee, in conformance with § 0.735-22, is not acting on behalf of the NRC in any particular matter in which the prospective employer has a financial interest;

(ii) Any reimbursement for food, lodging, and transportation is limited to actual expenses; and

(iii) The employee informs the counselor or a deputy counselor in writing in advance of the proposed travel.

(7) Acceptance of food and refreshments from a consumer, environmental, industrial, technical, trade, or professional association or similar group (not from an individual company), in connection with an NRC employee's attendance at a widely-attended gathering of mutual interest to the government and the private sector, such as a reception, seminar, conference, or training session, provided that:

(i) The food and refreshments proffered are not excessive; and

(ii) The employee's immediate supervisor or, in the case of an invitation to a Commissioner, the Commissioner, after consultation with the counselor or a deputy counselor, has determined in writing that:

(A) It is in the interest of the NRC for the employee to attend the gathering; and

(B) Attendance at the event will not create an appearance of impropriety.

FR 35301

considering factors such as the timing of the event, the reasons for the event, and the sponsor of the event.

FR 4502

(c) No employee shall accept free transportation in motor vehicles, aircraft, or other means, for official or unofficial purposes from NRC contractors, prospective contractors, licensees or prospective licensees, or representatives of any of them when such transportation might reasonably be interpreted as seeking to influence the impartiality of the employee or the agency.

FR 1271

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351), nor shall an employee directly or indirectly solicit from, accept from, offer to, or grant to an official superior or subordinate employee a loan of more than a nominal amount. However, this paragraph does not prohibit (1) a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement, or (2) a loan as described above of more than a nominal amount where a special personal or business relationship is involved, with prior approval of the higher-ranking employee's supervisor, after consultation with the counselor for NRC, or a deputy counselor, as provided in § 0.735-3(h). A copy of such approval shall be filed as provided for in § 0.735-28(e)(11).

FR 1929

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in Public Law 95-105, 91 Stat. 862.

FR 4502

§ 0.735-43 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 0.735-44 Scandalous conduct.

No employee shall engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government.

FR 1715

§ 0.735-45 Employee indebtedness.

Except as provided in § 0.735-42(d), the NRC considers the credit affairs of its employees essentially their own concern. However, employees are expected to conduct their credit affairs in a manner which does not reflect adversely on the Government as their employer. The NRC will not be placed in the position of acting as a collection agency for private debts or of determining the validity or amount of contested debts to private concerns. An employee is expected to pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. Failure on the part of an employee without good reason to honor just financial obligations or to make or adhere to satisfactory arrangements for settlement may be cause for disciplinary action. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which NRC determines does not, under the circumstances, reflect adversely on the Government as the individual's employer.

§ 0.735-46 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or -leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

- (a) Necessitated by an employee's law enforcement duties; or
- (b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

§ 0.735-47 Handling of funds entrusted by fellow employees.

No employee shall receive, retain, or disburse funds entrusted to him by fellow employees, e.g., credit union deposits or donations to charitable organizations, except with the utmost care in the safeguarding of such funds and the maintenance of full and complete records with regard to the receipt, custody, and disbursement of such funds. Such records shall be made available to appropriate authorities upon proper request.

FR 10360

§ 0.735-48 Restricted communications.

Certain employee communications are prohibited in formal adjudicatory proceedings under §§ 2.780 and 2.781 of this chapter.

FR 1401

§ 0.735-49 Employment of persons on extended leave of absence from a previous employer with reemployment rights or other benefits with the previous employer.

(a) NRC may employ persons on extended leave of absence from private employers where it is the way most advantageous to the NRC to obtain qualified employees with needed skills and no violation of conflict of interest statutes would be involved. The necessity for continued employment of such persons shall be reviewed annually by the Director, Office of Personnel. In their NRC assignments, such employees shall not be permitted to handle, directly or indirectly, or have access to, business confidential data of their former employers' competitors.

(b) When it is proposed to employ such a person, a statement of the exact terms and conditions of the leave of absence from his employer will be obtained from the prospective employee and submitted to the General Counsel for a prior determination of possible violation of statute.

(c) The following quotation from 18 U.S.C. 209 is pertinent to this situation.

(b) Nothing herein prevents an officer or employee of the executive branch of the U.S. Government or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

ART 0 • CONDUCT OF EMPLOYEE

§ 0.735-49a Other proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this Part 0, which might result in, or create the appearance of:

- (a) Using a public office for private gain;
- (b) Giving preferential treatment to any person;
- (c) Impeding Government efficiency or economy;
- (d) Losing complete independence or impartiality;
- (e) Making a Government decision outside official channels; or
- (f) Affecting adversely the confidence of the public in the integrity of the Government.

32 FR 13810

Subpart E—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 0.735-50 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 0.735-51 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

31 FR 4502

(b) Special Government employees may teach, lecture, or write in a manner not inconsistent with § 0.735-40(d), in regard to employees.

§ 0.735-52 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

§ 0.735-53 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with NRC anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) Exceptions authorized for employees under § 0.735-42 shall have equal application with respect to special Government employees.

§ 0.735-54 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute that relates to his ethical and other conduct as a special Government employee of NRC and of the Government. The NRC official responsible for his appointment shall call his attention specifically to §§ 0.735-21, 0.735-22, 0.735-23, 0.735-24(c), 0.735-25, 0.735-26, 0.735-27, and 0.735-30.

31 FR 4502

§ 0.735-55 Applicable standards of conduct.

Special Government employees shall adhere to the standards of conduct made applicable to such employees by Subpart B of this part and to the standards of conduct made applicable to regular employees by §§ 0.735-43, 0.735-44, 0.735-46, and 0.735-48. In addition, special Government employees who are not consultants or advisers shall also be subject to §§ 0.735-45 and 0.735-47.

Annex A— Code of Ethics for Government Service (5 U.S.C. 7301)

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and legal Regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

46 FR 51715

53 FR 19240
(6) The updated FSAR shall be retained by the licensee until the Commission terminates their license.

58 FR 40882
§ 50.72 Immediate notification requirements for operating nuclear power reactors.

(a) General Requirements. (1) Each nuclear power reactor licensee licensed under § 50.21(b) or § 50.22 of this part shall notify the NRC Operations Center via the Emergency Notification System of:

48 FR 39039
(i) The declaration of any of the Emergency Classes specified in the licensee's approved Emergency Plan; * or

48 FR 40882
(ii) Of those non-Emergency events specified in paragraph (b) of this section.
(2) If the Emergency Notification System is inoperative, the licensee shall make the required notifications via commercial telephone service, other dedicated telephone system, or any other method which will ensure that a report is made as soon as practical to the NRC Operations Center. †

48 FR 39039
(3) The licensee shall notify the NRC immediately after notification of the appropriate State or local agencies and not later than one hour after the time the licensee declares one of the Emergency Classes.

58 FR 40178
(4) The licensee shall activate the Emergency Response Data System (ERDS) ‡ as soon as possible but not later than one hour after declaring an emergency class of alert, site area emergency, or general emergency. The ERDS may also be activated by the licensee during emergency drills or exercises if the licensee's computer system has the capability to transmit the exercise data.

(5) When making a report under paragraph (a)(3) of this section, the licensee shall identify:
(i) The Emergency Class declared; or
(ii) Either paragraph (b)(1), "One-Hour Report," or paragraph (b)(2), "Four-Hour Report," as the paragraph of this section requiring notification of the Non-Emergency Event.

48 FR 39039
(b) Non-Emergency Events. (1) One-Hour Reports. If not reported as a declaration of an Emergency Class under paragraph (a) of this section, the licensee shall notify the NRC as soon as practical and in all cases within one hour of the occurrence of any of the following:

(i)(A) The initiation of any nuclear plant shutdown required by the plant's Technical Specifications.

(B) Any deviation from the plant's Technical Specifications authorized pursuant to § 50.54(x) of this part.

(ii) Any event or condition during operation that results in the condition of the nuclear power plant, including its principal safety barriers, being seriously degraded; or results in the nuclear power plant being:

(A) In an unanalyzed condition that significantly compromises plant safety;

(B) In a condition that is outside the design basis of the plant; or

(C) In a condition not covered by the plant's operating and emergency procedures.

(iii) Any natural phenomenon or other external condition that poses an actual threat to the safety of the nuclear power plant or significantly hampers site personnel in the performance of duties necessary for the safe operation of the plant.

(iv) Any event that results or should have resulted in Emergency Core Cooling System (ECCS) discharge into the reactor coolant system as a result of a valid signal.

(v) Any event that results in a major loss of emergency assessment capability, offsite response capability, or communications capability (e.g., significant portion of control room indication, Emergency Notification System, or offsite notification system).

(vi) Any event that poses an actual threat to the safety of the nuclear power plant or significantly hampers site personnel in the performance of duties necessary for the safe operation of the nuclear power plant including fires, toxic gas releases, or radioactive releases.

48 FR 39039
(2) Four-Hour Reports. If not reported under paragraphs (a) or (b)(1) of this section, the licensee shall notify the NRC as soon as practical and in all cases, within four hours of the occurrence of any of the following:

48 FR 40882
(i) Any event, found while the reactor is shut down, that, had it been found while the reactor was in operation, would have resulted in the nuclear power plant, including its principal safety barriers, being seriously degraded or being in an unanalyzed condition that significantly compromises plant safety.

57 FR 41378
(ii) Any event or condition that results in a manual or automatic actuation of any engineered safety feature (ESF), including the reactor protection system (RPS), except when:

(A) The actuation results from and is part of a pre-planned sequence during testing or reactor operation;

(B) The actuation is invalid and:

(1) Occurs while the system is properly removed from service;

(2) Occurs after the safety function has been already completed; or

(3) Involves only the following specific ESFs or their equivalent systems:

(i) Reactor water clean-up system;

(ii) Control room emergency ventilation system;

(iii) Reactor building ventilation system;

(iv) Fuel building ventilation system; or

(v) Auxiliary building ventilation system.

(iii) Any event or condition that alone could have prevented the fulfillment of the safety function of structures or systems that are needed to:

(A) Shut down the reactor and maintain it in a safe shutdown condition.

(B) Remove residual heat.

(C) Control the release of radioactive material; or

(D) Mitigate the consequences of an accident.

(iv)(A) Any airborne radioactive release that, when averaged over a time period of 1 hour, results in concentrations in unrestricted area that exceed 2 times the applicable concentration limits specified in appendix B to §§ 20.1-20.601, table II, column 1 of part 20 of this chapter or, for licensees implementing the provisions of §§ 20.1001-20.2401 of this chapter, 20 times the applicable concentration specified in appendix B to §§ 20.1001-20.2401, table 2, column 1, of part 20 of this chapter.

* Other requirements for immediate notification of the NRC by licensed operating nuclear power reactors are contained elsewhere in this chapter, in particular, §§ 20.205, 20.403 or, for licensees implementing the provisions of §§ 20.1001-20.2401, §§ 20.1906, 20.2202, 50.36, and 73.71

† These Emergency Classes are addressed in Appendix E of this part.

‡ Commercial telephone number of the NRC Operations Center is (301) 951-0550.

§ Requirements for ERDS are addressed in Appendix E, Section VI.

(B) Any liquid effluent release that, when averaged over a time period of 1 hour, exceeds 2 times the limiting combined concentration limits in appendix B to §§ 20.1-20.601, table II, column 2 (see note 1 to appendix B to §§ 20.1-20.601), or, for licensees implementing the provisions of §§ 20.1001-20.2401 of this chapter, exceeds 20 times the applicable concentration specified in appendix B to §§ 20.1001-20.2401, table 2, column 2, of part 20 of this chapter, at the point of entry into the receiving waters (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases. (Immediate notifications made under this paragraph also satisfy the requirements of paragraphs (a)(2) and (b)(2) of § 20.403 of this chapter, or, for licensees implementing the provisions of §§ 20.1001-20.2401, § 20.2202 of this chapter.)

(v) Any event requiring the transport of a radioactively contaminated person to an offsite medical facility for treatment.

(vi) Any event or situation, related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made. Such an event may include an onsite fatality or inadvertent release of radioactively contaminated materials.

(vii) Any instance of:

(A) A defect in any spent fuel storage cask structure, system, or component which is important to safety; or

(B) A significant reduction in the effectiveness of any spent fuel storage cask confinement system during use of the storage cask under a general license issued under § 72.210 of this chapter.

A followup written report is required by § 72.218(b) of this chapter including a description of the means employed to repair any defects or damage and prevent recurrence, using instructions in § 72.4, within 30 days of the report submitted in paragraph (a). A copy of the written report must be sent to the administrator of the appropriate Nuclear Regulatory Commission regional office shown in appendix D to part 20 of this chapter.

(c) *Followup Notification.* With respect to the telephone notifications made under paragraphs (a) and (b) of this section, in addition to making the required initial notification, each licensee, shall during the course of the event:

(1) *Immediately report:* (i) any further degradation in the level of safety of the plant or other worsening plant conditions, including those that require the declaration of any of the Emergency Classes, if such a declaration has not been previously made, or (ii) any change from one Emergency Class to another, or (iii) a termination of the Emergency Class.

(2) *Immediately report:* (i) the results of ensuing evaluations or assessments of plant conditions, (ii) the effectiveness of response or protective measures taken, and (iii) information related to plant behavior that is not understood.

(3) Maintain an open, continuous communication channel with the NRC Operations Center upon request by the NRC.

§ 50.73 Licensee event report system.

(a) *Reportable events.* (1) The holder of an operating license for a nuclear power plant (licensee) shall submit a Licensee Event Report (LER) for any event of the type described in this paragraph within 30 days after the discovery of the event. Unless otherwise specified in this section, the licensee shall report an event regardless of the plant mode or power level, and regardless of the significance of the structure, system, or component that initiated the event.

(2) The licensee shall report:

(i)(A) The completion of any nuclear plant shutdown required by the plant's Technical Specifications; or

(B) Any operation or condition prohibited by the plant's Technical Specifications; or

(C) Any deviation from the plant's Technical Specifications authorized pursuant to § 50.54(x) of this part.

(ii) Any event or condition that resulted in the condition of the nuclear power plant, including its principal safety barriers, being seriously degraded, or that resulted in the nuclear power plant being:

(A) In an unanalyzed condition that significantly compromised plant safety;

(B) In a condition that was outside the design basis of the plant; or

(C) In a condition not covered by the plant's operating and emergency procedures.

(iii) Any natural phenomenon or other external condition that posed an actual threat to the safety of the nuclear power plant or significantly hampered site personnel in the performance of duties necessary for the safe operation of the nuclear power plant.

(iv) Any event or condition that resulted in a manual or automatic actuation of any engineered safety feature (ESF), including the reactor protection system (RPS), except when:

(A) The actuation resulted from and was part of a pre-planned sequence during testing or reactor operation;

(B) The actuation was invalid and:

(1) Occurred while the system was properly removed from service;

(2) Occurred after the safety function had been already completed; or

(3) Involved only the following specific ESFs or their equivalent systems:

(i) Reactor water clean-up system;

(ii) Control room emergency ventilation system;

(iii) Reactor building ventilation system;

(iv) Fuel building ventilation system;

or

(v) Auxiliary building ventilation system.

(v) Any event or condition that alone could have prevented the fulfillment of the safety function of structures or systems that are needed to:

(A) Shut down the reactor and maintain it in a safe shutdown condition;

(B) Remove residual heat;

(C) Control the release of radioactive material; or

(D) Mitigate the consequences of an accident.

(vi) Events covered in paragraph (a)(2)(v) of this section may include one or more procedural errors, equipment failures, and/or discovery of design.

50 FR 23360

48 FR 39039

55 FR 29181

46 FR 39039

48 FR 39039

48 FR 33850

57 FR 41378

48 FR 33850

PART 50 • DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

analysis, fabrication, construction, and/or procedural inadequacies. However, individual component failures need not be reported pursuant to this paragraph if redundant equipment in the same system was operable and available to perform the required safety function.

(vii) Any event where a single cause or condition caused at least one independent train or channel to become inoperable in multiple systems or two independent trains or channels to become inoperable in a single system designed to:

- (A) Shut down the reactor and maintain it in a safe shutdown condition;
- (B) Remove residual heat;
- (C) Control the release of radioactive material; or
- (D) Mitigate the consequences of an accident.

(viii)(A) Any airborne radioactivity release that, when averaged over a time period of 1 hour, resulted in airborne radionuclide concentrations in an unrestricted area that exceeded 2 times the applicable concentration limits specified in appendix B to §§ 20.1-20.601, table II, column 1, of part 20 of this chapter or, for licensees implementing the provisions of §§ 20.1001-20.2401 of this chapter, exceeded 20 times the applicable concentration limits specified in appendix B to §§ 20.1001-20.2401, table 2, column 1 of part 20 of this chapter.

(B) Any liquid effluent release that, when averaged over a time period of 1 hour, exceeded 2 times the limiting combined concentration limits in appendix B to §§ 20.1-20.601, table II, column 2 (see note 1 to appendix B to §§ 20.1-20.601), or, for licensees implementing the provisions of §§ 20.1001-20.2401 of this chapter, exceeds 20 times the applicable concentration specified in appendix B to §§ 20.1001-20.2401, table 2, column 2, of part 20 of this chapter at the point of entry into the receiving waters (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases.

(ix) Reports submitted to the Commission in accordance with paragraph (a)(2)(viii) of this section also meet the effluent release reporting requirements of § 20.405(a)(1)(v) of this chapter, or, for licensees implementing the provisions of §§ 20.1001-20.2401, § 20.2203(a)(3) of this chapter.

(x) Any event that posed an actual threat to the safety of the nuclear power plant or significantly hampered site personnel in the performance of duties necessary for the safe operation of the nuclear power plant including fires, toxic gas releases, or radioactive releases.

(b) Contents. The Licensee Event Report shall contain:

(1) A brief abstract describing the major occurrences during the event, including all component or system

failures that contributed to the event and significant corrective action taken or planned to prevent recurrence.

(2)(i) A clear, specific, narrative description of what occurred so that knowledgeable readers conversant with the design of commercial nuclear power plants, but not familiar with the details of a particular plant, can understand the complete event.

(ii) The narrative description must include the following specific information as appropriate for the particular event:

- (A) Plant operating conditions before the event.
- (B) Status of structures, components, or systems that were inoperable at the start of the event and that contributed to the event.
- (C) Dates and approximate times of occurrences.
- (D) The cause of each component or system failure or personnel error, if known.
- (E) The failure mode, mechanism, and effect of each failed component, if known.
- (F) The Energy Industry Identification System component function identifier and system name of each component or system referred to in the LER.

(1) The Energy Industry Identification System is defined in: IEEE Std 803-1983 (May 16, 1983) Recommended Practices for Unique Identification Plants and Related Facilities—Principles and Definitions.

(2) IEEE Std 803-1983 has been approved for incorporation by reference by the Director of the Federal Register. A notice of any changes made to the material incorporated by reference will be published in the Federal Register. Copies may be obtained from the Institute of Electrical and Electronics Engineers, 345 East 47th Street, New York, NY 10017. IEEE Std 803-1983 is available for inspection at the NRC's Technical Library, which is located in the Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland; and at the Office of the Federal Register, 1100 L Street, NW, Washington, DC.

(G) For failures of components with multiple functions, include a list of systems or secondary functions that were also affected.

(H) For failure that rendered a train of a safety system inoperable, an estimate of the elapsed time from the discovery of the failure until the train was returned to service.

(I) The method of discovery of each component or system failure or procedural error.

(J)(1) Operator actions that affected the course of the event, including operator errors, procedural deficiencies, or both, that contributed to the event.

(2) For each personnel error, the licensee shall discuss:

- (i) Whether the error was a cognitive error (e.g., failure to recognize the actual plant condition, failure to realize which systems should be functioning, failure to

recognize the true nature of the event) or a procedural error;

(ii) Whether the error was contrary to an approved procedure, was a direct result of an error in an approved procedure, or was associated with an activity or task that was not covered by an approved procedure;

(iii) Any unusual characteristics of the work location (e.g., heat, noise) that directly contributed to the error; and

(iv) The type of personnel involved (i.e., contractor personnel, utility-licensed operator, utility nonlicensed operator, other utility personnel).

(K) Automatically and manually initiated safety system responses.

(L) The manufacturer and model number (or other identification) of each component that failed during the event.

(3) An assessment of the safety consequences and implications of the event. This assessment must include the availability of other systems or components that could have performed the same function as the components and systems that failed during the event.

(4) A description of any corrective actions planned as a result of the event, including those to reduce the probability of similar events occurring in the future.

(5) Reference to any previous similar events at the same plant that are known to the licensee.

(6) The name and telephone number of a person within the licensee's organization who is knowledgeable about the event and can provide additional information concerning the event and the plant's characteristics.

(c) Supplemental information. The Commission may require the licensee to submit specific additional information beyond that required by paragraph (b) of this section if the Commission finds that supplemental material is necessary for complete understanding of an unusually complex or significant event. These requests for supplemental information will be made in writing and the licensee shall submit, as specified in § 50.4, the requested information as a supplement to the initial LER.

(d) Submission of reports. Licensee Event Reports must be prepared on Form NRC 388 and submitted within 30 days of discovery of a reportable event or situation to the U.S. Nuclear Regulatory Commission, as specified in § 50.4.

(e) Report legibility. The reports and copies that licensees are required to submit to the Commission under the provisions of this section must be of sufficient quality to permit legible reproduction and micrographic processing.

(f) Exemptions. Upon written request from a licensee including adequate justification or at the initiation of the NRC staff, the NRC Executive Director for Operations may, by a letter to the licensee, grant exemptions to the reporting requirements under this section.

PART 50 • DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

(g) *Reportable occurrences.* The requirements contained in this section replace all existing requirements for licensees to report "Reportable Occurrences" as defined in individual plant Technical Specifications.

§ 50.74 Notification of change in operator of senior operator station.

Each licensee shall notify the Commission in accordance with § 50.4 within 30 days of the following in regard to a licensed operator or senior operator:

(a) Permanent reassignment from the position for which the licensee has certified the need for a licensed operator or senior operator under § 50.31(a)(3) of this chapter.

(b) Termination of any operator or senior operator.

(c) Disability or illness as described in § 50.25 of this chapter.

§ 50.75 Reporting and recordkeeping for decommissioning planning.

(a) This section establishes requirements for indicating to NRC how reasonable assurance will be provided that funds will be available for decommissioning. For electric utilities it consists of a step-wise procedure as provided in paragraphs (b), (c), (e), and (f) of this section. Funding for decommissioning of electric utilities is also subject to the regulation of agencies (e.g., Federal Energy Regulatory Commission (FERC) and State Public Utility Commissions) having jurisdiction over rate regulation. The requirements of this section, in particular paragraph (c), are in addition to, and not substitution for, other requirements, and are not intended to be used, by themselves, by other agencies to establish rates.

(b) Each electric utility applicant for or holder of an operating license for a production or utilization facility of the type and power level specified in paragraph (c) of this section shall submit a decommissioning report, as required by § 50.33(k) of this part containing a certification that financial assurance for decommissioning will be provided in an amount which may be more but not less than the amount stated in the table in paragraph (c)(1) of this section, adjusted annually using a rate at least equal to that stated in paragraph (c)(2) of this section, by one or more of the methods described in paragraph (e) of this section as acceptable to the Commission. The amount stated in the applicant's or licensee's certification may be based on a cost estimate for decommissioning the facility. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section is to be submitted to NRC.

(c) Table of minimum amounts (January 1986 dollars) required to demonstrate reasonable assurance of

funds for decommissioning by reactor type and power level, P (in MWt); adjustment factor.¹

	Millions
(1)(i) For a PWR:	
greater than or equal to 3400 MWt.....	\$105
between 1200 MWt and 3400 MWt (For a PWR of less than 1200 MWt, use P=1200 MWt).....	\$(75+(.0068P))
(ii) For a BWR:	
greater than or equal to 3400 MWt.....	\$175
between 1200 MWt and 3400 MWt (For a BWR of less than 1200 MWt, use P=1200 MWt).....	\$(104+0.008P)

(2) An adjustment factor at least equal to $0.85 L + 0.13 E + 0.22 B$ is to be used where L and E are escalation factors for labor and energy, respectively, and are to be taken from regional data of U.S. Department of Labor Bureau of Labor Statistics and B is an escalation factor for waste burial and is to be taken from NRC report NUREG-1307, "Report on Waste Burial Charges."

(d) Each non-electric utility applicant for or holder of an operating license for a production or utilization facility shall submit a decommissioning report as required by § 50.33(k) of this part containing a cost estimate for decommissioning the facility, an indication of which method or methods described in paragraph (e) of this section as acceptable to the Commission will be used to provide funds for decommissioning, and a description of the means of adjusting the cost estimate and associated funding level periodically over the life of the facility.

(e)(1) As provided in paragraphs (e) (2) and (3) of this section, financial assurance is to be provided by the following methods:

(i) Prepayment. Prepayment is the deposit prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(ii) External sinking fund. An external sinking fund is a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of

¹ Amounts are based on activities related to the definition of "Decommission" in § 50.2 of this part and do not include the cost of removal and disposal of spent fuel or of nonradioactive structures and materials beyond that necessary to terminate the license.

operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(iii) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid should the licensee default. A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial insurance for decommissioning must contain the following conditions:

(A) The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Commission, the beneficiary, and the licensee of its intention not to renew. The surety or insurance must also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Commission within 30 days after receipt of notification of cancellation.

(B) The surety or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the Commission. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(C) The surety method or insurance must remain in effect until the Commission has terminated the license.

(2) For a licensee other than an electric utility, acceptable methods of providing financial assurance for decommissioning are—

(i) Prepayment;

(ii) An external sinking fund, in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund.

(iii) A surety method, insurance, or other guarantee method. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A of 10 CFR Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section.

(iv) In the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning, and indicating that funds for decommissioning will be obtained when necessary.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

ACTION

EDO Principal Correspondence Control

FROM:

DUE: 01/06/93

EDO CONTROL: 0008413

DOC DT: 12/20/92

FINAL REPLY:

ary C. Ott & Donald M. Muirhead
Citizens Urging Responsible Energy

TO:

Chairman Selin

OR SIGNATURE OF:

** GRN **

CRC NO: 92-1092

Martin

ESC:

ROUTING:

QUESTIONS CONCERNING EVENTS WHICH OCCURRED AT
PILGRIM DURING THE OCTOBER 24-25 SHUTDOWN

Taylor

Sniezek

Thompson

Blaha

Knubel

Lieberman, OE

Jordan, AEOD

DATE: 12/22/92

ASSIGNED TO:

CONTACT:

RI

Martin

SPECIAL INSTRUCTIONS OR REMARKS:

FAX NO: (01) 504-1672

Citizens Urging Responsible Energy

December 20, 1992

Ivan Selin, Chairman
US Nuclear Regulatory Commission
1717 H Street - Mailstop 16615
Washington, D.C. 20555

Dear Chairman Selin:

We attended the November 5th meeting conducted by the Plymouth Nuclear Affairs Committee regarding the operational events which occurred at the Pilgrim Nuclear Power Station during the October 24/25th, 1992 shutdown.

Since many questions still remain unanswered, we ask that you provide clarification of the following:

1. How many incident reports were filed with the NRC the weekend of October 24 & 25, 1992?
2. Please provide the log entry times when the containment was purged and/or vented.
3. Were any violations of NRC or Company technical specifications observed? If so, is your agency considering enforcement action?
4. What is the definition of a NRC "reportable event"?
5. By definition, which events are assigned "Priority Attention Required" status on the Region I "Morning Report"?

The October 26, 1992 Region I Morning Report says in part, "Initial review of computer data graphs indicate that the actual magnitude of the "B" instrument spike may have been slightly larger if the instrument had a larger recordable range."

6. Was there any other observable means or recorded data to gauge how much larger the spike actually was?

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7. When and why was the Yarway rack removed from Pilgrim?
Was the rack damaged by a fire in 1981?
8. When the Augmented Off Gas (AOG) Treatment System is bypassed during shutdown, does it result in unfiltered venting?
9. Was the AOG bypassed during the shutdown?

Boston Edison's radiation specialist, Thomas Sowden, specifically stated that there were no particulates in the emissions released from Pilgrim. Further, he said Pilgrim vents steam which contains only inert gases such as Krypton, Xenon and Argon which could be inhaled and exhaled without any health effect.

A growing body of medical evidence indicates that there is no safe level of radiation exposure. What is the NRC's philosophy on radiation health impact?

Finally, we have received information that the individual heading Boston Edison's program to resolve water level instrumentation problems is, in fact, former NRC inspector, Stephen Hudson. We understand that Mr. Hudson testified at a federal proceeding regarding his role in covering up a massive radioactive spill at the Nine Mile I nuclear plant New York.

11. When did Mr. Hudson leave the NRC?
Was he terminated by your agency?
Does the NRC have a policy with respect to industry employment?

These are matters of great concern to our organization. We would appreciate your prompt response.

Sincerely,

Mary C. Ott

Mary C. Ott

Donald M. Muirhead Jr.

Donald M. Muirhead, Jr. M.D.

Fax NO: (310) 704-1672

Citizens Urging Responsible Energy

December 28, 1992

Ivan Selin, Chairman
US Nuclear Regulatory Commission
1717 H. Street - Mailstop 16615
Washington, D.C. 20555

Dear Chairman Selin:

Our letter of December 20, 1992 sought clarification of many issues regarding the water level instrumentation problems at the Pilgrim Nuclear Power Station.

We have an additional concern. We have learned that the NRC has cited Northeast Utilities with a violation of requirements for hiring an unapproved supplier, Sol Levy Inc., to fix water level instrumentation problems at the Millstone I nuclear plant.

It is our understanding that Boston Edison has hired the same firm to address such problems at Pilgrim. We have not seen evidence in the Public Document Room that Pilgrim has received a violation. Has a violation been issued; and if not, why not?

We look forward to your reply.

Sincerely,

Mary C. Ott
Mary C. Ott
Co-Chairmen

Donald M. Muirhead Jr. M.D.
Donald M. Muirhead Jr., M.D.

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

June 16, 1993

Docket No. 50-293

Mr. Richard T. Hill
General Electric Corporation
175 Curtner Avenue
San Jose, California 95125

Dear Mr. Hill:

SUBJECT: PILGRIM NUCLEAR POWER STATION - REQUEST FOR WITHHOLDING INFORMATION
FROM PUBLIC DISCLOSURE (TAC NO. M40164)

By application dated June 11, 1993, and your affidavit dated June 10, 1993, you submitted General Electric Company Report NEDC-31852P, "Pilgrim Nuclear Power Station SAFER/GESTR-LOCA Loss-of-Coolant Accident Analysis," and requested information in it be withheld from public disclosure pursuant to 10 CFR 2.790.

You stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;
- b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;
- c. The information identified in the above-referenced document is classified as proprietary because it contains detailed results of analytical models, methods and processes, including computer codes, which GE has developed, obtained NRC approval of, and applied to perform evaluations of the loss-of-coolant accident for the BWR.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of General Electric's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, the report entitled, "Pilgrim Nuclear Power Station SAFER/GESTR-LOCA Loss-of-Coolant Accident Analysis", marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

(P)

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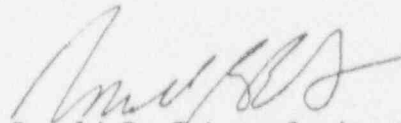
H/B

June 16, 1993

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,



Ronald B. Eaton, Senior Project Manager
Project Directorate I-3
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

cc: See next page

Pilgrim Nuclear Power Station

cc:

Mr. Edward S. Kraft,
Vice President of Nuclear
Operations & Station Director
Pilgrim Nuclear Power Station
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Plymouth, Massachusetts 02360

Resident Inspector
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Mr. Thomas Rapone
Secretary of Public Safety
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Mr. David Rodham, Director
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Attn: James Muckerheide

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