

**UNION OF
CONCERNED
SCIENTISTS**

August 13, 1999

Secretary
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

**SUBJECT: SUBMITTAL OF PETITION FOR RULEMAKING – EMPLOYEE
PROTECTION TRAINING**

Dear Ms. Vietti-Cook:

Pursuant to §2.802 of Title 10 of the *Code of Federal Regulations*, I hereby submit the enclosed petition for rulemaking. This petition for rulemaking seeks to require NRC's licensees to provide specific training to management (first-line supervisors, managers, directors, and officers) regarding the federal regulations for employee protection. UCS feels that this rulemaking is required based on the NRC staff's position that they are unable to take enforcement actions against individuals who violate the employee protection regulations (i.e., 10 CFR 50.7) unless they can explicitly prove that these individuals knew that their actions violated these important regulations. UCS strongly feels that nuclear industry management should no longer be allowed to use "ignorance of the law" as an excuse for violating employee protection regulations. These illegal activities will only stop when the NRC holds wrong-doers personally accountable.

Sincerely,



David A. Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists

Enclosure: Petition for Rulemaking: Employee Protection Training



Petition for Rulemaking: Employee Protection Training

According to guidance posted on the NRC's website (<http://www.nrc.gov/NRC/RULES/petirule.html>), the petitioner must, as a minimum:

Set forth a general solution to the problem or present the substance or text of any proposed regulation or amendment or specify the regulation that is to be revoked or amended;

State clearly and concisely your grounds for and interest in the action request; and

Include a statement in support of the petition that sets forth the specific issues involved; your views or arguments with respect to those issues; relevant technical, scientific, or other data involved that is reasonably available to you; and any other pertinent information necessary to support the action sought.

UCS will address these three criteria in the following sections.

Set forth a general solution to the problem or present the substance or text of any proposed regulation or amendment or specify the regulation that is to be revoked or amended

The regulations concerning deliberate misconduct in 10 CFR Parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150 should be revised to require licensees to provide training to management (first-line supervisors, managers, directors, and officers) about their obligations with respect to employee protection regulations in 10 CFR.

State clearly and concisely your grounds for and interest in the action request

On May 14, 1996, the NRC issued a policy statement applicable to employee protection regulations:

The Nuclear Regulatory Commission (NRC) is issuing this policy statement to set forth its expectation that licensees and other employers subject to NRC authority will establish and maintain safety-conscious environments in which employees feel free to raise safety concerns, both to their management and to the NRC, without fear of retaliation. The responsibility for maintaining such an environment rests with each NRC licensee, as well as with contractors, subcontractors and employees in the nuclear industry. This policy statement is applicable to NRC regulated activities of all NRC licensees and their contractors and subcontractors.

UCS has had a nuclear safety program for over two decades. We have in the past, and continue, to work with nuclear workers – including employees of the Nuclear Regulatory Commission – who raise safety concerns. The issues raised by nuclear workers have led to significant improvements in safety levels. For example, anonymous concerns received by UCS and forwarded to the State of Maine in December 1996 led to the identification of faults in the safety analyses for the Maine Yankee plant. Another whistleblower's concerns received by UCS and presented to the NRC in January 1998 led to the discovery of serious defects in the ice condenser containment at the Donald C. Cook nuclear plant.

Title 10 to the *Code of Federal Regulations* contains regulations to protect such conscientious workers from discrimination. The record indicates that these regulations are frequently violated. Yet the individuals determined by the NRC staff as being responsible for these illegal activities are seldom held accountable.

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In the mid 1980s, the NRC promulgated its Fitness-For-Duty rule (10 CFR Part 26). The regulations in 10 CFR Part 26 require nuclear workers to be free from impairment by drugs and alcohol. When it is determined that a worker has not complied with these regulations, enforcement actions can and will be taken against the individual. At least 17 of the 111 individual enforcement actions listed on Attachment 1 involved violation of the fitness-for-duty rule. The NRC did not take enforcement action against the licensees for these cases. It limited its sanctions to those individuals responsible for the violations.

The NRC treats violations of employee protection regulations differently. When it establishes that a violation of an employee protection regulation has occurred, such as in the May 20, 1999, enforcement action imposed against FirstEnergy (see Attachment 2), the NRC seldom takes enforcement action against the individuals responsible for the violations. Instead, the NRC limits its enforcement actions to the licensees.

UCS strongly believes that nuclear safety demands that nuclear workers not be impaired by drug and alcohol. When any worker violates the fitness-for-duty rule, that individual should be held accountable. UCS also strongly believes it is equally important that nuclear workers feel free to raise safety issues without fear of discrimination. When a worker violates the employee protection regulations, that individual should be held accountable.

The NRC is holding individuals who violate the fitness-for-duty rule accountable. The agency is not holding individuals who violate the employee protection regulations accountable. UCS is attempting to remedy this inequity by this proposed rulemaking. By requiring licensees to train management on their obligations under the employee protection regulations, the NRC staff would no longer be able to claim that individuals were unaware that their actions were illegal.

Include a statement in support of the petition that sets forth the specific issues involved; your views or arguments with respect to those issues; relevant technical, scientific, or other data involved that is reasonably available to you; and any other pertinent information necessary to support the action sought

10 CFR Parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150 each contain a regulation against deliberate misconduct by employees and/or contractors of NRC licensees. The following section from 10 CFR Part 50 reflects the scope and content of these deliberate misconduct regulations:

§50.5 Deliberate misconduct.

(a) Any licensee, applicant for a license, employee of a licensee or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not:

(1) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission; or

(2) Deliberately submit to the NRC, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the

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information known to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For the purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license issued by the Commission; or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, applicant, contractor, or subcontractor.

The NRC took enforcement action against individuals 111 times between March 1996 and August 5, 1999 (source: <http://www.nrc.gov/OE/rpr/ia.htm>).¹ Attachment 1 summarizes these individual enforcement actions. Only four (4) cases involved enforcement action taken by the NRC because the individual discriminated against nuclear workers raising safety concerns.

Federal regulations protect nuclear workers from being discriminated against for raising safety concerns. For example, §50.7, *Employee protection*, of 10 CFR Part 50 applies to workers at nuclear power plants:

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

Equivalent regulations within 10 CFR apply to workers at non-power nuclear facilities.

The four (4) cases listed on Attachment 1 where NRC took enforcement action against individuals for their discriminatory actions against nuclear workers clearly demonstrates that the agency can take such actions. However, the evidence is just as clear that the agency seldom imposes enforcement actions against individuals even when it concludes that individuals were responsible for illegal discriminatory actions. Attachment 2 lists the eighteen (18) enforcement actions imposed against nuclear power plant owners between March 1996 and August 5, 1999, for discrimination against nuclear workers (source: <http://www.nrc.gov/OE/rpr/rx.htm>). Attachment 3 lists the five (5) enforcement actions imposed against non-nuclear power plant licensees between March 1996 and August 5, 1999, for discrimination against workers (source: <http://www.nrc.gov/OE/rpr/mat.htm>).

In 12 of the 18 enforcement actions against nuclear power plant owners, the NRC also imposed a civil penalty. The penalties ranged between \$55,000 and \$200,000 with the average being \$104,417. In four of

¹ The NRC has also issued Letters of Reprimand to individuals during this time period. However, the NRC staff must not consider such sanctions to be enforcement actions since they are not mentioned in the annual report issued by the Office of Enforcement. UCS agrees that Letters of Reprimand do not constitute enforcement action.

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the five enforcement actions against non-nuclear plant licensees, the NRC also imposed a civil penalty. The penalties ranged between \$4,400 and \$10,000 with the average being \$7,800.

Thus, from March 1996 to August 5, 1999, the NRC took 23 enforcement actions against licensees for discriminating against nuclear workers. In 16 of these 23 cases, the NRC staff also imposed a civil penalty.² Before taking these enforcement actions and imposing these fines, the NRC staff's investigations determined who did what to whom. The NRC concluded that the "what" violated the employee protection regulations of 10 CFR.

However, despite identifying "who" was responsible for violating federal regulations in these 23 cases, the NRC staff only took enforcement action against individuals on four occasions. That they took actions against four individuals demonstrates that the NRC has the statutory authority to do so. In fact, the NRC revised 10 CFR Parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150 in January 1998 to expand its statutory authority:

The Nuclear Regulatory Commission (NRC) is amending its regulations to extend the Deliberate Misconduct Rule to six categories of persons: applicants for NRC licenses; applicants for, or holders of, certificates of compliance; applicants for, or holders of, early site permits, standard design certifications, or combined licenses for nuclear power plants; applicants for, or holders of, certificates of registration; applicants for, or holders of, quality assurance program approvals; and the employees, contractors, subcontractors and consultants of the above five categories of persons. This amendment would subject these categories of persons to enforcement action for deliberate misconduct. Deliberate misconduct may involve providing information that is known to be incomplete or inaccurate in some respect material to the NRC, or it may involve conduct that causes or would have caused, if not detected, a licensee, certificate holder, or applicant to be in violation of any of the Commission's requirements.

On May 25, 1999, UCS filed a petition with the NRC pursuant to §2.206 of 10 CFR:

The Union of Concerned Scientists (UCS) submits this petition pursuant to the 'other actions' provision of 10 CFR 2.206. Specifically, we request that the individual who was the Radiation Protection Manager at the Perry Nuclear Power Plant be banned by the NRC from participation in licensed activities at and for any nuclear power plant for a period of at least five (5) years.

According to NRC News Announcement RIII-99-31 dated May 24, 1999, the NRC proposed a \$110,000 fine against First Energy Nuclear Operating Company for violation of the employee protection requirements of 10 CFR Part 50.7. The announcement stated that an NRC investigation found that the Radiation Protection Manager at the Perry Nuclear Power Plant discriminated against a supervisor in 1997 for testifying in a United States Department of Labor hearing involving possible discrimination against another plant worker. The NRC has banned individuals in the recent past for five (5) years for retaliation.³

² It must also be noted that fining a nuclear plant owner \$110,000 for an employee protection violation has little impact. The GAO, in report GAO/RCED-97-145 dated May 1997, reported that a nuclear plant shut down costs its owner \$249,000 to \$310,000 each day. A manager who discriminates against a worker and prevents a four-day shut down thus saves the company nearly \$1 million at the mere risk of \$110,000 – a prudent business decision.

³ Nuclear Regulatory Commission, Press Release No. II-97-08, "NRC Staff Proposes \$100,000 Fine Against Tennessee Valley Authority – NRC Staff Also Prohibits TVA Executive from Involvement in NRC-Licensed Activities," January 14, 1997.

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By letter dated June 23, 1999, the NRC denied the UCS petition:

As part of our internal deliberations during the enforcement process, consideration was given to taking enforcement action against the Manager. The NRC determined, however, that the Manager was not familiar with the requirements of 10 CFR 50.7. In your submittal, you argued that even if this is accurate, that ignorance of the law is no excuse. The NRC agrees that knowledge and understanding of the law are not necessary elements in determining whether a violation of 10 CFR 50.7 occurred. These elements are relevant, however, in determining whether enforcement action can be taken against the individual based on a violation of 10 CFR 50.5, the rule on deliberate misconduct. Therefore, no formal action was taken against the Manager. The NRC issued the Manager a letter stating that the Manager's actions contributed to the enforcement action against FirstEnergy. Additionally, the letter informed the Manager that involvement in a future discrimination violation could result in enforcement action against the Manager.

In this case, the NRC imposed a \$110,000 civil penalty – the maximum permitted by law – against the owner of the Perry Nuclear Power Plant because its Radiation Protection Manager violated the employee protection requirements of 10 CFR 50.7. However, the NRC claimed it could take no action against the manager who violated 10 CFR 50.7 because that individual may not have known that his actions were illegal. In other words, ignorance of the law is indeed an excuse – at least when it comes to violating regulations promulgated to protect nuclear workers from discrimination.

The NRC's decision regarding UCS's petition makes little sense. When they revised 10 CFR Parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150 in January 1998, the NRC stated:

The objective of the rule is to explicitly put those persons encompassed by this modification of the Deliberate Misconduct Rule on notice that enforcement action may be taken against them for deliberate misconduct or deliberate submission of incomplete or inaccurate information, in relation to NRC licensed activities. Under Section 234 of the Atomic Energy Act, the Commission may impose civil penalties on any person who violates any rule, regulation, or order issued under any one of the enumerated provisions of the Act, or who commits a violation for which a license may be revoked. The enforcement actions that may be taken, including orders limiting activities of wrongdoers in the future and civil penalties, will serve as a deterrent to others throughout the industry. [emphasis added]

For some unfathomable reason, the NRC staff believes that people will be aware that the deliberate misconduct regulation was expanded to apply to them, but that these same people will be oblivious to all of the other regulations that define proper conduct.

Rather than debating whether the NRC staff can really excuse illegal activities of nuclear industry management based on their ignorance of federal regulations (which, of course, begs the question why NRC is not concerned about people running nuclear facilities who profess ignorance of federal safety regulations), UCS is opting for this proposed rule change to take away the ignorance excuse altogether.

Attachment 1 NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
A. Abdulshafi Transferred moisture density gauges containing byproduct material to a person not authorized to possess such material.	IA 98-058	March 31, 1999
Shashi K. Agarwal Operating without RSO or authorized user as required by license.	IA 97-006	September 12, 1996
Robert C. Allen Deliberate violation of approved, detailed written procedures for the venting of the Unit 1 pressurizer relief tank.	IA 96-065	October 18, 1996
Steven R. Allent Deliberate exposure of a coworker to a hot particle.	IA 96-050	September 5, 1996
Steven M. Allison Violation of NRC requirements governing fitness-for-duty as a licensed operator.	IA 99-010	March 25, 1999
Randall Allmon Submitted inaccurate information.	IA 98-061	January 27, 1999
John T. Altman Tested positive for illegal drug in random FFD test.	IA 97-085	October 29, 1997
Finis Scott Bandy False statement to licensee with respect to prior criminal record; altered documents.	IA 97-087	November 19, 1997
Jeffrey Barnhart Falsification of access authorization information.	IA 97-049	June 23, 1997
Daniel R. Baudino Deliberately falsified personal history information.	IA 97-032	May 27, 1997
Robert Beltran Submitted false employment information claiming employment with an employer for five years, when in fact, he had never been employed by said employer.	IA 96-074	November 21, 1996
Aharon Ben-Haim, Ph.D. Inaccurate statement on license application.	IA 97-065	July 31, 1997
Aharon Ben-Haim, Ph.D. Inaccurate statement on license application.	IA 97-068	August 27, 1997
Sue A. Blacklock Coerced chemistry technician to falsify reactor enclosure cooling water sample documentation	IA 97-059	August 5, 1997
John Boschuk Jr. 	IA 98-019	April 10, 1998

Attachment 1

NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
Deliberate material false statements, destruction of records.		
Lourdes T. Boschuk Deliberate material false statements, destruction of records.	IA 98-020	April 10, 1998
David Branham Falsifying the record of the release rate calculation verifications.	IA 99-016	April 30, 1999
William E. Breen Failed a chemical test for drugs.	IA 96-049	August 27, 1996
Leland H. Brooks Deliberately falsified information which you provided on an application to obtain unescorted access to Pacific Gas & Electric's Diablo Canyon Nuclear Power Plant.	IA 98-024	July 24, 1998
Samuel L. Brooks Deliberately recorded dosages in the dose administration records that were not accurate.	IA 96-030	June 12, 1996
Sheila N. Burns Conducting radiography without a radiation survey instrument.	IA 98-067	April 29, 1999
<i>Joseph R. Bynum</i> <i>Deliberately violated Section 211 of the Energy Reorganization Act and 10 CFR 50.5 (Deliberate Misconduct). the deliberate misconduct caused the licensee to be in violation of 10 CFR 50.7 (Employee Protection)</i>	<i>IA 96-101</i>	<i>January 13, 1997</i>
Kirk H. Carroll Deliberately violated procedures by entering a yellowcake packaging enclosure without wearing a full face respirator.	IA 96-051	September 6, 1996
John Chmielorz Deliberate failure to allow use of nuclear gauge without proper certification and dosimetry.	IA 99-011	June 17, 1999
William H. Clark Deliberate misconduct in violation of 10 CFR 50.5 of the Commission's regulations when false information was provided to two NRC licensees.	IA 98-045	December 21, 1998
Gary L. Cowan Stole source containing licensed material	IA 98-008	March 11, 1998
Charles W. Davis Deliberate violation of the NRC-required fitness for duty (FFD) program.	IA 99-009	March 29, 1999
James S. Dawson Conducting radiography without a radiation survey instrument.	IA 99-002	April 29, 1999

Attachment 1

NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
<i>Eric DeBarba</i> <i>Discrimination against two supervisors.</i>	IA 99-012	April 6, 1999
Steven DeNise Fitness for Duty.	IA 97-077	October 10, 1997
Mark D. Diehl Tested positive for marijuana and was terminated.	IA 96-031	June 14, 1996
Kent Dvorak Deliberate failure to ensure workers completed operator safety training prior to possessing and operating gauges.	IA 97-079	November 17, 1997
Bryan Eccelston Tested positive for cocaine use and was terminated.	IA 96-032	June 17, 1996
Magdy Elamir, M.D. Inaccurate statement on license application.	IA 97-064	July 31, 1997
Magdy Elamir, M.D. Inaccurate statement on license application.	IA 97-070	September 15, 1997
M. El Naggar Transferred moisture density gauges containing byproduct material to a person not authorized to possess such material.	IA 98-059	March 31, 1999
Kenneth F. Enoch Deliberate falsification of surveillance procedure.	IA 99-036	July 23, 1999
Neil Everson Deliberate violation of the procedures implementing the NRC-approved security plan for the Zion Station.	IA 99-031	July 20, 1999
Edwin S. Feemster Failure to maintain an accurate training attendance record.	IA 99-007	June 7, 1999
Richard Fentiman Failure to follow access authorization procedures.	IA 96-061	September 27, 1996
Joseph M. Foley Inaccurate information provided.	IA 98-055	May 12, 1999
Jose R. Garza Operations supervisor failed to disclose two arrests and convictions for DUI.	IA 97-038	July 30, 1997
Richard M. Gracin	IA 96-052	December 19, 1996

Attachment 1

NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
Deliberately provided information to an NRC inspector and to licensee representatives that was inaccurate.		
Juan Guzman Provided false information about identity and criminal background.	IA 96-020	April 19, 1996
Charles H. Hardison, Jr. Senior Radiation Protection Technician falsified error activity data sheet	IA 98-012	March 13, 1998
David Harris Submitted urine sample that had been altered or tampered with.	IA 96-062	October 22, 1996
Timothy Hartnett Left the controls of the reactor unattended.	IA 98-056	November 19, 1998
Jeffrey W. Holybee Violations of license conditions.	IA 97-072	September 12, 1997
Nathan Hougas Deliberate false statement in a security report regarding an unlocked vital area.	IA 97-080	February 4, 1998
Donald T. Hughes, Jr. Failure to comply with Fitness-for-Duty requirements.	IA 99-028	June 10, 1999
Harvey J. Hyde, Jr. Fitness-for-Duty Violation.	IA 98-036	July 10, 1998
Gary Isakoff Fabricated records.	IA 98-006	February 24, 1999
David Johns Deliberate use of licensed material following suspension of license.	IA 97-026	May 15, 1997
Mark Jenson Deliberately violated 10 CFR 30.10 by failing to utilize trained and qualified individuals for the conduct of radiographic operations.	IA 96-042	July 16, 1996
Thomas C. Johnson Willful manipulation of Fitness-For-Duty computer program.	IA 98-002	April 28, 1998
Roger E. Jones Licensed operator failed a chemical test for drugs.	IA 96-073	November 19, 1996
Stephen M. Jozwiak Licensed operator failed a chemical test for drugs.	IA 97-086	November 7, 1997

Attachment 1

NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
Subhash Khullar Abandoning licensed material and providing false information to the NRC.	IA 97-031	March 21, 1997
Peter Kint Deliberately failed to wear his alarming ratemeter.	IA 99-001	March 1, 1999
David Kirkland Deliberate violation of 10 CFR 35.25(a)(2) by administering 6.6 millicuries of iodine-131 to a patient without first obtaining the signature of an authorized user on a written directive.	IA 97-010	April 1, 1997
Michael S. Kirzmanich The action was based on a violation of 10 CFR 30.9 and 10 CFR 34.27. Specifically, the licensee's utilization logs maintained at the licensee's Wexford, Pennsylvania, office were inaccurate because they were neither "current" nor created on the date of use of the source, but in fact, were created at a later time in order to address questions asked by the NRC during a previous NRC inspection. This information was material because it had the capability to influence NRC action and, in fact, was presented to the NRC as indication that PI had completed the logs on the date of use.	IA 97-014	February 18, 1997
Krishna Kumar Deliberate falsification of NRC-required records	IA 97-011	February 18, 1997
Lee LaRocque Misadministration.	IA 98-065	February 24, 1999
John Maas Abandoned sources used in gauge plant.	IA 96-100	December 12, 1996
Emil McCormic Violation of NRC requirements covering fitness-for-duty as a licensed operator.	IA 99-008	March 25, 1999
Donald J. McDonald, Jr. Provided incomplete and inaccurate information on applications made for access authorization at Illinois Power Company.	IA 96-018	March 27, 1996
Julian McGriff Falsification of EP records.	IA 97-067	February 23, 1998
Darryl D. McNeil Security violations.	IA 97-001	March 24, 1997
Lee Meyers Violation of a license requirement by allowing patient treatments to continue without monthly calibration checks of the high dose rate afterloader, even though he knew that the checks were	IA 97-017	March 7, 1997

Attachment 1

NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
required.		
David Milas Deliberate misconduct at nuclear power facilities and the compromise of the integrity of NRC examinations.	IA 98-047	September 18, 1998
Michael Muszynski Falsification of dose calibrator constancy record.	IA 96-067	December 20, 1996
James Mulkey The action was based on an inspection and investigation which concluded that Mr. Mulkey engaged in deliberate misconduct by: (1) submitting to NRC licensees inaccurate information concerning eddy current qualification certification examination results and personnel certification summaries; (2) providing to the NRC a letter which contained inaccurate information relating to whether corrective actions had been taken in response to a previous Notice of Violation; and (3) providing false information to the NRC during a telephone discussion with a representative of the NRC.	IA 97-012	February 18, 1997
Charles J. Naivar Deliberately failed to follow plant procedures while conducting an inspection of the diesel generator building and falsified the corresponding procedural documentation.	IA 98-035	July 17, 1998
Albert M. Nardslico Willful manipulation of Fitness-For-Duty computer program.	IA 98-001	April 28, 1998
James C. Nelson Wrongdoing - use of gauge when under order not to do so.	IA 97-004	January 27, 1997
Robert J. Nelson Falsification of quality assurance document.	IA 97-033	August 18, 1997
Steven F. Nevin Involved with falsification of reactor enclosure cooling water sample documentation.	IA 97-060	August 5, 1997
Michael Perry Deliberate misconduct at a nuclear power facility and the compromise of the integrity of NRC examinations.	IA 98-048	September 18, 1998
Jesus Osorio Failure to provide training for radiographers and provided false information to the NRC concerning radiographers certification.	IA 96-043	July 16, 1996
Cecil Ray Owen False statements regarding prior drug use.	IA 96-103	January 2, 1997

Attachment 1

NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
<i>Gary Pageau</i> <i>Deliberate misconduct involving discrimination against an electrician for raising safety concern.</i>	<i>IA 99-003</i>	<i>August 3, 1999</i>
John R. Raskovsky Deliberately falsification of personnel background security forms.	IA 97-037	June 18, 1997
Michael Redlin Falsifying access authorization regarding drug use.	IA 97-088	December 8, 1997
Darrel T. Rich Falsified radiation survey.	IA 97-074	January 5, 1998
Todd Ripplinger Deliberate misconduct.	IA 98-057	February 24, 1999
Brian K. Rogers Submitted inaccurate information.	IA 98-062	January 27, 1999
Kelly N. Ross Falsification of access authorization record.	IA 97-075	September 12, 1997
Randall Rumley Deliberately transferred an unauthorized quantity of UO2 powder and attempted to conceal the action.	IA 97-071	September 12, 1997
Kipp Rustenholtz Deliberately received material at unauthorized location.	IA 96-040	July 17, 1996
James P. Ryan Licensed operator failed a chemical test for drugs.	IA 97-007	January 31, 1997
Stephen W. Ryan Falsification of Surveillance Test.	IA 98-015	July 10, 1998
Roy Sadovksy (DVM) Deliberate use of licensed material at an unauthorized location.	IA 97-024	May 1, 1997
Bradley K. Sherwin Deliberate failure to secure and control licensed material and deliberate failure to provide the NRC with complete and accurate information regarding the licensed material (moisture density gauge).	IA 99-030	July 8, 1999
Marvin Shook Falsification of access authorization records.	IA 97-073	September 12, 1997

Attachment 1 NRC Sanctions Against Individuals 1996 to August 1999

Name Reason for Sanction	Action No.	Date Issued
Allen J. Simoneaux Falsification of access authorization records.	IA 97-076	September 16, 1997
Donald Smith Deliberately provided false information regarding tamper alarms.	IA 97-056	July 23, 1997
Richard A. Speciale Deliberate misconduct to secure and control licensed material without proper certification and training and deliberate failure to provide NRC with accurate information regarding the licensed material (portable gauges).	IA 99-091	July 21, 1999
Derek Stevens Deliberate violations of NRC requirements.	IA 97-008	April 15, 1997
George W. Stewart The action was based on a violation of 10 CFR 30.9 and 10 CFR 34.27. Specifically, the licensee's utilization logs maintained at the licensee's Wexford, Pennsylvania, office were inaccurate because they were neither "current" nor created on the date of use of the source, but in fact, were created at a later time in order to address questions asked by the NRC during a previous NRC inspection. This information was material because it had the capability to influence NRC action and, in fact, was presented to the NRC as indication that PI had completed the logs on the date of use.	IA 97-015	February 18, 1997
Ronald Stewart Deliberate failure to provide complete and accurate information during the pre-employment process.	IA 97-018	April 4, 1997
Jaromir Stipek Deliberate misconduct.	IA 98-007	July 6, 1998
Lanny R. Tillman Work performed on wrong component.	IA 97-089	December 1, 1997
Jack D. Taylor Violation of NRC requirements.	IA 98-010	July 2, 1998
Michael Thomas Deliberately attempted to conceal the release of the contaminated video equipment.	IA 98-064	May 12, 1999
Dale Todd Conducted NRC-licensed activities without a specific or general license issued by the NRC.	IA 98-066	March 31, 1999
<i>Frank A. Warriner</i> <i>Discrimination against a contract employee based on the employee's engaging in protected activities.</i>	<i>IA 96-015</i>	<i>March 7, 1996</i>

Attachment 1
NRC Sanctions Against Individuals 1996 to August 1999

Name	Action No.	Date Issued
Reason for Sanction		
Leslie Weibley Willful transportation violation. False information to OI investigators.	IA 98-003	March 4, 1998
A. Davey Wells Deliberately provided an NRC inspector with information that was incomplete and inaccurate.	IA 98-004	January 5, 1998
Kenneth Wierman Deliberate falsification of training records.	IA 99-021	May 10, 1999
Lonnie Randall Wilson Deliberately falsified background information.	IA 97-050	June 26, 1997
Leo C. Zell Falsification of Surveillance Test.	IA 98-016	July 10, 1998

Attachment 2

NRC Discrimination Sanctions Against Reactor Licensees 1996 to August 1999

Licensee Name	Plant Name	Action No.	Size of Fine	Date Issued	Reason for Sanction
North Atlantic Energy Service Corporation	Seabrook Station, New Hampshire	EA 98-165	\$55,000	August 3, 1999	Violation involving discrimination against an electrician for raising safety issues
FirstEnergy Nuclear Operating Company	Perry Nuclear Power Plant, Ohio	EA 99-012	\$110,000	May 20, 1999	Discriminated against a Radiation Protection Supervisor (RPS) as a result of the RPS engaging in protected activities.
Northeast Nuclear Energy Company	Millstone Station, Connecticut	EA 98-325	None	April 6, 1999	Discrimination against two supervisors.
Northeast Nuclear Energy Company	Millstone Nuclear Power Station, Connecticut	EA 97-461	\$88,000	March 9, 1999	Violation involving the discrimination against two contractor employees.
Arizona Public Service Company	Palo Verde Nuclear Generating Station, Arizona	EA 93-159	\$100,000	March 7, 1996	Action based on discrimination against a contract instrumentation and control technician.
Bartlett Nuclear, Incorporated	Plymouth, Massachusetts	EA 96-060	None	June 4, 1996	Discrimination against individual.
Cleveland Electric Illuminating Company	Perry Nuclear Power Plant, Ohio	EA 96-253	\$160,000	October 9, 1996	Discrimination against 5 insulators who sued licensee after they were contaminated while working in plant.
Florida Power and Light Company	Turkey Point, Florida	EA 96-051	\$100,000	July 16, 1996	Discrimination against an individual when he was fired for engaging in protected activities.

Attachment 2

NRC Discrimination Sanctions Against Reactor Licensees 1996 to August 1999

Licensee Name

Plant Name

Action No.

Size of Fine

Date Issued

Reason for Sanction

Georgia Power Company

Vogtle Electric Generating Plant, Georgia

EA 95-171 and EA 95-277 None

May 29, 1996

Discrimination against former senior manager.

Houston Light and Power Company

South Texas Project, Texas

EA 96-133 and 96-136 \$200,000

September 19, 1996

Discrimination.

McEnany Roofing, Inc.

Tampa, Florida

EA 96-336

None

December 12, 1996

This action was based on violation of 10 CFR 50.7 which prohibits, in part, discrimination by a contractor of a Commission licensee against an employee for engaging in certain protected activities. Specifically, the discrimination included the discharge of a security escort as a result of the escorts reporting a violation of security escort requirements imposed pursuant to the Atomic Energy Act.

Niagara Mohawk Power Corporation

Nine Mile Point Nuclear Station, New York

EA 96-116 \$80,000

July 24, 1996

Discrimination against employee.

Northeast Nuclear Energy Company

Millstone Nuclear Power Station, Connecticut

EA 96-059 \$100,000

June 4, 1996

Discrimination against individual.

Public Service Electric and Gas Company

Salem Nuclear Generating Station, New Jersey

EA 96-177 \$80,000

December 9, 1996

The licensee, through its former manager of NSR, discriminated in December 1992 against a Safety Review Engineer (SRE) and in November 1993 and May 1994 against a former Onsite Safety Review Engineer (OSRE).

Raytheon Engineers & Constructors, Inc.

Philadelphia, Pennsylvania

EA 96-137

None

September 19, 1996

Discrimination.

Attachment 2
NRC Discrimination Sanctions Against
Reactor Licensees 1996 to August 1999

Licensee Name			
Plant Name			
Action No.	Size of Fine		Date Issued
Reason for Sanction			
STP Nuclear Operating Company			
STP Nuclear Generating Station, Texas			
EA 97-341	None		June 9, 1998
Discrimination against supervisor and engineer for reporting safety concerns.			
Tennessee Valley Authority			
Browns Ferry Nuclear Plant, Alabama			
EA 95-252	\$80,000 ⁴		February 20, 1996
Discrimination.			
Tennessee Valley Authority			
Sequoyah Nuclear Plant, Tennessee			
EA 95-199	\$100,000		January 13, 1997
Chemistry manager was threatened with termination for raising safety concerns.			

⁴ Subsequently withdrawn

Attachment 3
NRC Discrimination Sanctions Against
Materials Licensees 1996 to August 1999

Licensee Name	Plant Name	Action No.	Size of Fine	Date Issued	Reason for Sanction
Coriell Institute for Medical Research	Camden, NJ	EA 99-060	\$4,400	June 2, 1999	Discrimination against an employee for raising safety concern.
Honolulu Medical Group	Honolulu, Hawaii	EA 95-006	None	January 23, 1997	Discrimination
Koppel Steel Corporation	Beavers Fall, Pennsylvania	EA 96-498	\$8,800	March 19, 1997	The action was based on discrimination against a former Radiation Safety Officer after he provided information to an NRC inspector during an April 1996 inspection.
Mattingly Testing Services, Inc.	Billings, Montana	EA 97-180	\$10,000 ⁵	October 31, 1997	Discrimination
V. A., Department of	Philadelphia, Pennsylvania	EA 96-182	\$8,000 ⁶	September 18, 1996	Discrimination against RSO for contacting NRC

⁵ Subsequently withdrawn

⁶ Subsequently withdrawn