

§ 72.10

72.232, 72.234, 72.236, 72.240, 72.242, 72.244, 72.248.

[64 FR 56122, Oct. 15, 1999, as amended at 67 FR 67101, Nov. 4, 2002; 68 FR 54149, Sept. 16, 2003]

§ 72.10 Employee protection.

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

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting

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without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding must be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, certificate holder, applicant for a Commission license or a CoC, or a contractor or subcontractor of any of these may be grounds for:

(1) Denial, revocation, or suspension of the license or the CoC.

(2) Imposition of a civil penalty on the licensee or applicant.

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon non-discriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited considerations.

(e)(1) Each licensee, certificate holder, and applicant for a license or CoC must prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. The premises must be posted not later than 30

days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license or CoC, and for 30 days following license or CoC termination.

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter, by calling (301) 415-5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

[58 FR 52414, Oct. 8, 1993, as amended at 60 FR 24552, May 9, 1995; 61 FR 6766, Feb. 22, 1996; 64 FR 56122, Oct. 15, 1999; 68 FR 58819, Oct. 10, 2003]

§ 72.11 Completeness and accuracy of information.

(a) Information provided to the Commission by a licensee, certificate holder, or an applicant for a license or CoC; or information required by statute or by the Commission's regulations, orders, license or CoC conditions, to be maintained by the licensee or certificate holder, must be complete and accurate in all material respects.

(b) Each licensee, certificate holder, or applicant for a license or CoC must notify the Commission of information identified by the licensee, certificate holder, or applicant for a license or CoC as having, for the regulated activity, a significant implication for public health and safety or common defense and security. A licensee, certificate holder, or an applicant for a license or

CoC violates this paragraph only if the licensee, certificate holder, or applicant for a license or CoC fails to notify the Commission of information that the licensee, certificate holder, or applicant for a license or CoC has identified as having a significant implication for public health and safety or common defense and security. Notification must be provided to the Administrator of the appropriate Regional Office within two working days of identifying the information. This requirement is not applicable to information which is already required to be provided to the Commission by other reporting or updating requirements.

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§ 72.12 Deliberate misconduct.

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

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

(2) Deliberately submit to the NRC, a licensee, a certificate holder, an applicant for a license or certificate, or a licensee's, applicant's, or certificate holder's contractor or subcontractor, information that the person submitting the information knows 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.