

§ 63.5

maintain adequate safeguards against tampering with and loss of records.

[66 FR 55792, Nov. 2, 2001, as amended at 68 FR 58815, Oct. 10, 2003]

§ 63.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel is binding on the Commission.

§ 63.6 Exemptions.

The Commission may, upon application by DOE, any interested person, or upon its own initiative, grant an exemption from the requirements of this part if it determines that the exemption is authorized by law, does not endanger life nor property nor the common defense and security, and is otherwise in the public interest.

§ 63.7 License not required for certain preliminary activities.

The requirement for a license set forth in § 63.3(a) is not applicable to the extent that DOE receives and possesses source, special nuclear, and byproduct material at a geologic repository at the Yucca Mountain site:

(a) For purposes of site characterization; or

(b) For use, during site characterization or construction, as components of radiographic, radiation monitoring, or similar equipment or instrumentation.

§ 63.8 Information collection requirements: OMB approval.

(a) 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 (44 U.S.C. 3501, *et seq.*). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0199.

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(b) The approved information collection requirements contained in this part appear in §§ 63.62, 63.63, and 63.65.

§ 63.9 Employee protection.

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

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

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

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) of this section, 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) of this section;

(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 does not apply to any employee alleging discrimination prohibited by this section who, acting

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

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

(c) A violation of paragraph (a), (e), or (f) of this section by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant may be grounds for—

(1) Denial, revocation, or suspension of the license;

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

(3) Other enforcement action.

(d) Actions taken by an employer, or others, that adversely affect an employee, may be predicated on 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 and each applicant for a license shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in §19.11(c) of this chapter. This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days

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

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in appendix D to part 20 of this chapter, by calling (301) 415-5877, via e-mail to forms@nrc.gov, or by accessing the NRC 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 that would prohibit, restrict, or otherwise discourage an employee from participating in a protected activity as defined in paragraph (a)(1) of this section, including, but not limited to, providing information to NRC or to his or her employer on potential violations or other matters within NRC's regulatory responsibilities.

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§63.10 Completeness and accuracy of information.

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

(b) The applicant or licensee shall notify the Commission of information identified by the applicant or licensee as having, for the regulated activity, a significant implication for public health and safety or common defense and security. An applicant or licensee violates this paragraph only if the applicant or licensee fails to notify the Commission of information that the applicant or licensee has identified as having a significant implication for