

separately for fees for aflatoxin assay. The importer also shall pay all required Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in these regulations. Such records and documentation accumulated during entry shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: October 1, 1996.

Sharon Bomer Lauritsen,
Acting Director, Fruit and Vegetable Division.
[FR Doc. 96-25519 Filed 10-3-96; 8:45 am]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150

RIN 3150-AF35

Deliberate Misconduct by Unlicensed Persons

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise 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 first five categories of persons, so that they may be subject to

enforcement action for deliberate misconduct. Deliberate misconduct may involve providing information that is known to be incomplete or inaccurate and 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.

DATES: The comment period expires December 18, 1996. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attn: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Tony DiPalo, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6191, e-mail, ajd@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1991 (56 FR 40664), the Commission adopted changes to NRC regulations that established the Deliberate Misconduct Rule found at 10 CFR 30.10, 40.10, 50.5, 60.11, 61.9b, 70.10, 72.12, and 110.7b, which applies to any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee. In addition, 10 CFR 150.2 makes the rule applicable to persons conducting activities under reciprocity in areas of NRC jurisdiction, (see 10 CFR 150.20). The Deliberate Misconduct Rule placed licensed and unlicensed persons on notice that they may be subject to enforcement action for deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any of the Commission's requirements, or for deliberately providing to the NRC, a licensee, or contractor, information that is incomplete or inaccurate in some respect material to the NRC. The rule also revised the NRC's procedures for issuing orders to include persons not licensed by the Commission, but who are otherwise subject to the Commission's statutory authority.

Currently, the Deliberate Misconduct Rule does not apply to:

- (1) Applicants for NRC licenses;
 - (2) Applicants for, or holders of, certificates of compliance issued under 10 CFR Parts 71 and 72, including those for dry cask storage;
 - (3) Applicants for, or holders of, early site permits, standard design certifications, or combined licenses for nuclear power plants issued under 10 CFR Part 52;
 - (4) Applicants for, or holders of, certificates of registration issued under 10 CFR Parts 30 and 32;
 - (5) Applicants for, or holders of, quality assurance program approvals issued under 10 CFR Part 71; and
 - (6) The employees, contractors, subcontractors, and consultants of the first five categories of persons.
- To ensure that these persons are subject to enforcement action for wrongdoing under the Deliberate Misconduct Rule, the NRC is proposing to extend the rule to them. The Commission's proposed rule would also add the Deliberate Misconduct Rule to 10 CFR Parts 52 and 71 where it currently does not appear.

The Commission does not believe that it is necessary to add the Deliberate Misconduct Rule to 10 CFR Part 54 because licensees applying to renew their operating licenses for nuclear power plants are already subject to this rule as licensees under 10 CFR Part 50. Similarly, the Commission does not believe that it is necessary to add the Deliberate Misconduct Rule to 10 CFR Part 55 because applicants for, and holders of, reactor operators licenses are already subject to this rule as employees of 10 CFR Part 50 licensees. Moreover, licensed operators are subject to all applicable Commission requirements (see 10 CFR 55.53(d)) and thus a finding of deliberate misconduct is not required to take enforcement action against a licensed reactor operator.

Discussion

It is important that all information provided to the NRC be complete and accurate in all material respects. Section 186 of the Atomic Energy Act of 1954, as amended (AEA), underscores this need by providing that "[a] license may be revoked for any material false statement in the application or any statement of fact required [by statute or regulation]. * * *" The Commission has promulgated rules concerning completeness and accuracy of information that specifically apply to information provided to the Commission by a licensee or an applicant for a license (see 10 CFR 30.9(a), 40.9(a), 50.9(a), 60.10(a), 61.9a(a), 70.9(a), 71.7a, 72.11(a), 76.9(a) and 110.7a(a)). Similarly, paragraph (b)

of each of these sections, which deals with notification to the Commission of significant safety information, refers to applicants as well as licensees. Violation of these provisions can result in denial of the license application, civil enforcement action against a licensee, or, if appropriate, referral to the Department of Justice for consideration for criminal prosecution.

The Deliberate Misconduct Rule permits the NRC to take individual action, such as issuing an order, against an individual who deliberately provides information that the individual knows to be incomplete or inaccurate. However, when the Deliberate Misconduct Rule was promulgated, it did not address applicants for licenses, applicants for, and holders of, certificates of compliance or certificates of registration, applicants for, and holders of, early site permits, certified designs and combined licenses, and applicants for, and holders of, quality assurance program approvals.

Incomplete or inaccurate information has potential safety significance, whether submitted before or after a license, certificate, permit, or approval has been issued. The Commission has clearly emphasized the importance of applications containing accurate information; e.g., "[The Commission] cannot overstate the importance of a licensee's or an applicant's duty to provide the Commission with accurate information." *Randall C. Orem, D.O., CLI-93-14, 37 NRC 423 (1993)*. The *Orem* case involved a consultant to an applicant for a license who provided inaccurate information that was included in the license application and the Commission found that information as to the status of the facility was material to the licensing decision. *Id.* at 428.

The Commission believes that there may be significant safety consequences from the deliberate submission of false or incomplete information or other deliberate wrongdoing by an applicant for a license or other unlicensed persons proposed to be covered by this modification to the Deliberate Misconduct Rule. For example, a spent fuel cask that is certified by the NRC on the basis of falsified test data could represent a threat to public health and safety. Similarly, a quality assurance program that is submitted to the NRC for approval but is supported by deliberately falsified data that mask a significant defect could also be a public health and safety threat. Under the present Deliberate Misconduct Rule, a certificate holder who obtained a certificate by deliberate submittal of false information could escape

individual NRC enforcement action because the deliberate misconduct may not have put an "NRC licensee" in violation. To effectively exercise its authority under the AEA, the Commission needs to prevent or otherwise deter the deliberate submittal of materially false or inaccurate information by those entities not currently covered by the rule. The NRC knows of no reason why the rule should not apply to persons who deliberately submit materially incomplete or inaccurate information, whether such submittal is by or on behalf of an applicant, or by or on behalf of a holder of a license, certificate, permit, or approval.

The Commission proposes to modify the Deliberate Misconduct Rule each place it appears in 10 CFR Chapter I to make the rule apply to applicants for NRC licenses; to applicants for, and holders of, certificates of compliance issued under 10 CFR Parts 71 and 72; to applicants for, and holders of, early site permits, certified designs, and combined licenses for nuclear power plants issued under 10 CFR Part 52; to applicants for, and holders of, certificates of registration issued under Parts 30 and 32; and to applicants for, and holders of, quality assurance program approvals issued under Part 71; and to the employees, contractors, subcontractors and consultants of all the above categories of persons. This would include, for example, a consultant engaged by an applicant to prepare a license application for such activities as radiography, well logging, irradiation, and teletherapy. It would also apply to a consultant preparing an application for a certificate for a spent fuel cask, or individuals conducting performance tests to support such an application.

The proposed revisions to the Deliberate Misconduct Rule would appear in 10 CFR 30.10, 40.10, 50.5, 60.11, 61.9b, 70.10, 72.12, and 110.7b. Section 71.11 would be added to incorporate the rule in Part 71 and § 52.10 would be added to incorporate the rule in 10 CFR Part 52. In addition, 10 CFR 150.2 and 10 CFR 32.1(b) would be revised to incorporate the proposed changes. The scope provisions found in 10 CFR 30.1, 40.2, 50.1, 52.1, 60.1, 61.1(c), 70.2, 71.0, 72.2, and 110.1(a) would also be modified to reflect these revisions to the rule. The Commission would make a minor language change by altering the phrase "but for detection" to "if not detected" where the phrase appears in each rule, but intends no substantive change by this revision. Having this enforcement authority available will help the NRC pursue redress in cases of deliberate

misconduct by unlicensed persons acting within the scope of the Commission's jurisdiction and may deter such behavior as well.

This rulemaking extending the Deliberate Misconduct Rule to applicants for NRC licenses; applicants for, and holders of, certificates of compliance issued under 10 CFR Parts 71 and 72; applicants for, and holders of, early site permits, standard design certifications, or combined licenses for nuclear power plants issued under 10 CFR Part 52; applicants for, and holders of, certificates of registration issued under 10 CFR Parts 30 and 32; and applicants for, and holders of, quality assurance program approvals issued under 10 CFR Part 71; and to the employees, contractors, subcontractors and consultants of all the above categories of persons, implements the Commission's authority under the AEA to issue regulations and orders to any person (defined in section 11s of the AEA to include, e.g., an individual, corporation, firm, or a Federal, State, or local agency) who engages in conduct affecting activities within the Commission's subject matter jurisdiction.

In brief, section 161i of the AEA provides broad authority to issue regulations and orders as the Commission deems necessary to govern any activity authorized pursuant to the AEA in order to protect public health and safety. Section 161b of the AEA similarly authorizes the Commission to issue regulations and orders to impose "standards and instructions" on persons to govern the possession and use of special nuclear material, source material, and byproduct material, as may be necessary or desirable to provide for the common defense and security and protect public health and safety. Section 234 of the AEA authorizes the NRC to impose civil penalties on certain unlicensed persons for violating the NRC's substantive requirements. Section 234a of the AEA (as amended by section 3116, Title III of the Omnibus Appropriations Act of 1996, April 28, 1996) reads as follows:

Any person who (1) violates any licensing or certification provision of sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701 of any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license or certification issued thereunder, or (2) commits any violation for which a license may be revoked under section 186, shall be subject to a civil penalty, to be imposed by the Commission, of not to exceed \$100,000 for each such violation.

The licensing provisions listed in section 234a generally prohibit the

possession, use, receipt, or transfer of nuclear materials or facilities unless authorized by and in accordance with a license.

The proposed changes are made under the authority of sections 161b and i and the above-identified licensing and certification provisions in section 234. The changes apply to any person who engages in deliberate misconduct, or who deliberately submits materially incomplete or inaccurate information, as provided in the rule. By imposing a direct prohibition on unlicensed persons, the Commission may be able to exercise its section 234 authority to impose civil penalties on unlicensed persons who deliberately cause a licensee, applicant, or permit or certificate holder to be in violation of requirements because they are persons who violate the licensing provisions enumerated in section 234. In cases when the Commission issues an order (other than an order imposing a civil penalty) to a person based on deliberate misconduct that causes a licensee, applicant, or permit or certificate holder to be in violation of a Commission requirement, the order would be issued in part pursuant to a regulation (e.g., § 30.10) that was promulgated under a licensing provision of the AEA. A civil penalty could be available for violations of such an order. In addition, criminal sanctions under section 223 of the AEA are available for willful violations of orders and regulations issued under sections 161b and i. Injunctions are also available under section 232 of the AEA for violations of Commission orders.

Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll-free number (800) 303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online

User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a directly dialed phone number for the main FedWorld BBS, (703) 321-3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555-0001, telephone (301) 415-5780; e-mail AXD3@nrc.gov.

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this rulemaking as indicated in the Supplementary Information section.

Compatibility of Agreement State Regulations

This rule is designated a Division-3 matter of compatibility with respect to Agreement State regulations because it deals with enforcement actions such as the issuance of orders and civil penalties to unlicensed persons for deliberate misconduct. In addition to license applicants, these changes expand applicability of the rule to include persons such as certificate holders and quality assurance program approval holders. Such actions are addressed individually by States through each State's administrative code. Division-3 regulations are appropriate for Agreement States to adopt, but do not require any degree of uniformity between the NRC and Agreement State rules. Agreement States are not required to adopt the regulatory approach identified in Division-3 regulations.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule relates to enforcement matters and, therefore, falls within the scope of 10 CFR 51.10(d). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0017, 3150-0151, 3150-0127, 3150-0135, 3150-0009, 3150-0132, 3150-0036, and 3150-0032.

Public Protection Notification

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.

Regulatory Analysis

The NRC has statutory authority to issue enforcement actions against unlicensed persons whose deliberate misconduct causes a licensee or a certificate holder or an applicant for a license or certificate to be in violation of the Commission's requirements. On August 15, 1991 (56 FR 40664) the NRC promulgated the Deliberate Misconduct Rule which put licensed and unlicensed persons on notice that they may be subject to enforcement action for

deliberate misconduct that causes or, if not detected, would cause a licensee to be in violation of any of the Commission's requirements or for deliberately providing to the NRC, a licensee, or a contractor information that is incomplete or inaccurate in some respect material to the NRC. However, the Deliberate Misconduct Rule does not specifically apply to:

- (1) Applicants for NRC licenses;
- (2) Applicants for, and holders of, certificates of compliance issued under 10 CFR Parts 71 and 72;
- (3) Applicants for, and holders of, early site permits, standard design certifications, or combined licenses for nuclear power plants issued under 10 CFR Part 52;
- (4) Applicants for, and holders of, certificates of registration issued under 10 CFR Parts 30 and 32;
- (5) Applicants for, and holders of, quality assurance program approvals issued under 10 CFR Part 71; and
- (6) The employees, contractors, subcontractors and consultants of the first five categories of persons.

On November 29, 1991, the NRC staff issued an Order Revoking License to Dr. Randall C. Orem after the NRC staff learned that information in his license application was false and that the application had been prepared by a consultant who had provided the false information. See *Randall C. Orem, D.O.*, CLI-93-14, 37 NRC 423 (1993). In this case, the NRC staff realized that under the provisions of the existing Deliberate Misconduct Rule, it was unable to take additional enforcement action against Dr. Orem and was precluded from taking enforcement action against the consultant because the consultant was working for an applicant rather than for a licensee. Subsequently, the Commission realized that other categories of persons within NRC jurisdiction had not been explicitly included within the Deliberate Misconduct Rule; e.g., certificate holders under 10 CFR Parts 71 and 72 and holders of early site permits, certified design certifications and combined licenses under 10 CFR Part 52.

The Commission believes that there may be significant safety consequences from the deliberate submission of false or incomplete information or other deliberate wrongdoing by an applicant for a license or other unlicensed persons proposed to be covered by this modification to the Deliberate Misconduct Rule. For example, a spent fuel cask that is certified by the NRC on the basis of falsified test data could represent a threat to public health and safety. Similarly, a quality assurance

program that is submitted to the NRC for approval but is supported by deliberately falsified data that mask a significant defect could also be a public health and safety threat. The potential for injury is serious. The NRC knows of no reason why the Deliberate Misconduct Rule should not apply to persons who deliberately submit materially incomplete or inaccurate information, whether that submittal is by or on behalf of an applicant, or by or on behalf of a holder of a license, certificate, permit, or approval.

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.

The NRC's available alternatives are to promulgate a modification of the Deliberate Misconduct Rule, as is proposed herein, or do nothing. Because a case has already occurred where the NRC was precluded from taking appropriate enforcement action against a consultant to an applicant and there was potential harm to the public, the alternative of doing nothing was rejected. The benefits of taking enforcement action are similar to those of taking action against licensed entities in that a civil penalty and attendant adverse publicity encourage future compliance. The Notice of Violation calls for a precise response regarding the corrective action taken. An enforcement order, if obeyed, will directly control the involvement of an individual in a licensed activity. The effect of having these options available in the enforcement program should reduce the probability of repetitive violations by wrongdoers.

The NRC does not anticipate that additional investigations will be necessary to implement the rule because it focuses on the results of investigations. Based on experience, the NRC expects fewer than 10 additional cases per year to result in enforcement action being taken against unlicensed individuals. The cost of preparing and

publishing the additional actions beyond the current workload is not significant.

The proposed amendments to the Deliberate Misconduct Rule constitute the preferred course of action. The cost involved in its promulgation and application is necessary and appropriate. The foregoing discussion constitutes the regulatory analysis for this rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule would put: (1) applicants for NRC licenses; (2) applicants for, and holders of, certificates of compliance issued under 10 CFR Parts 71 and 72, including those for dry cask storage; (3) applicants for, and holders of, early site permits, standard design certifications, or combined licenses issued under 10 CFR Part 52; (4) applicants for, and holders of, certificates of registration issued under 10 CFR Parts 30 and 32; (5) applicants for, and holders of, quality assurance program approvals issued under 10 CFR Part 71; and (6) the employees, contractors, subcontractors and consultants of the first five categories of persons on notice that they are subject to the Deliberate Misconduct Rule and, therefore, are subject to civil enforcement action if they deliberately cause a licensee, certificate holder, or an applicant for a license or certificate to be in violation of NRC requirements. The proposed rule, by itself, would not impose any additional obligations on entities that may fall within the definition of "small entities" as set forth in Section 601(3) of the Regulatory Flexibility Act; or within the definition of "small business" as found in Section 3 of the Small Business Act, 15 U.S.C. 632; or within the size standards adopted by the NRC on April 11, 1995 (60 FR 18344).

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and, therefore, a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects**10 CFR Part 30**

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear power plants and reactors, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons stated in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Parts 30, 32, 40, 50, 52, 60, 61, 70, 71, 72, 110, and 150.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 30.1 is revised to read as follows:

§ 30.1 Scope.

This part prescribes rules applicable to all persons in the United States governing domestic licensing of byproduct material under the Atomic Energy Act of 1954, as amended (68

Stat. 919), and under title II of the Energy Reorganization Act of 1974 (88 Stat. 1242), and exemptions from the domestic licensing requirements permitted by section 81 of the Act. This part also gives notice to all persons who knowingly provide to any licensee, applicant, certificate of registration holder, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's, applicant's or certificate of registration holder's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 30.10.

3. Section 30.10 is revised to read as follows:

§ 30.10 Deliberate misconduct.

(a) Any licensee, certificate of registration holder, applicant for a license or certificate of registration, employee of a licensee, certificate of registration holder 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 or certificate of registration, who knowingly provides to any licensee, applicant, certificate holder, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, certificate holder'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, certificate of registration holder, 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, certificate of registration holder, an applicant, or a licensee's, certificate holder's or applicant'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.

(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, certificate of registration holder 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, certificate of registration holder, applicant, contractor, or subcontractor.

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

4. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

5. Section 32.1(b) is revised to read as follows:

§ 32.1 Purpose and scope.

* * * * *

(b) The provisions and requirements of this part are in addition to, and not in substitution for, other requirements of this chapter. In particular, the provisions of Part 30 of this chapter apply to applications, licenses, and certificates of registration subject to this part.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

6. The authority citation for Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

7. Section 40.2 is revised to read as follows:

§ 40.2 Scope.

Except as provided in §§ 40.11 to 40.14, inclusive, the regulations in this part apply to all persons in the United States. This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or

subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 40.10.

8. Section 40.10 is revised to read as follows:

§ 40.10 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 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.

(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.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

9. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C.

2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

10. Section 50.1 is revised to read as follows:

§ 50.1 Basis, purpose, and procedures applicable.

The regulations in this part are promulgated by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242), to provide for the licensing of production and utilization facilities. This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 50.5.

11. Section 50.5 is revised to read as follows:

§ 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 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.

(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.

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

12. The authority citation for Part 52 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

13. Section 52.1 is revised to read as follows:

§ 52.1 Scope.

This part governs the issuance of early site permits, standard design certifications, and combined licenses for nuclear power facilities licensed under section 103 or 104b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), and Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242). This part also gives notice to all persons who knowingly provide to any holder of or applicant for an early site permit, standard design certification, or combined license, or to a contractor, subcontractor, or consultant of any of them, components, equipment, materials, or other goods or services, that relate to the activities of a holder of or applicant for an early site permit, standard design certification, or

combined license, subject to this part, that they may be individually subject to NRC enforcement action for violation of § 52.10.

14. Section 52.9 is added following § 52.8 and reads as follows:

§ 52.9 Deliberate misconduct.

(a) Any holder of, or applicant for, an early site permit, standard design certification, or combined license, including its employees, contractors, subcontractors, or consultants and their employees, who knowingly provides to any holder of, or applicant for, an early site permit, standard design certification, or combined license, or to a contractor, subcontractor or consultant of any of them, equipment, materials, or other goods or services that relate to the activities of a holder of, or applicant for, an early site permit, standard design certification or combined license in this part, may not:

(1) Engage in deliberate misconduct that causes or would have caused, if not detected, a holder of, or applicant for, an early site permit, standard design certification, or combined license, to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any permit, certification or license issued by the Commission; or

(2) Deliberately submit to the NRC, a holder of, or applicant for, an early site permit, standard design certification, or combined license, or a contractor, subcontractor, or consultant of any of them 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.

(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 holder of, or applicant for, an early site permit, standard design certification, or combined license, 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 holder of, or applicant for, an early site permit, certified design or combined license, or a contractor or subcontractor of any of them.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

15. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

16. Section 60.1 is revised to read as follows:

§ 60.1 Purpose and scope.

This part prescribes rules governing the licensing of the U.S. Department of Energy to receive and possess source, special nuclear, and byproduct material at a geologic repository operations area sited, constructed, or operated in accordance with the Nuclear Waste Policy Act of 1982. This part does not apply to any activity licensed under another part of this chapter. This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 60.11.

17. Section 60.11 is revised to read as follows:

§ 60.11 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 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.

(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.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

18. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102-486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851).

19. In § 61.1, paragraph (c) is revised to read as follows:

§ 61.1 Purpose and scope.

* * * * *

(c) This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 61.9b.

20. Section 61.9b is revised to read as follows:

§ 61.9b 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 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.

(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.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

21. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

22. Section 70.2 is revised to read as follows:

§ 70.2 Scope.

Except as provided in §§ 70.11 to 70.13, inclusive, the regulations in this part apply to all persons in the United States. This part also gives notice to all

persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 70.10.

23. Section 70.10 is revised to read as follows:

§ 70.10 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 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.

(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.

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

24. The authority citation for Part 71 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948,

953, 954, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2297f); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 71.97 also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789–790.

25. Section 71.0 is amended by adding a new paragraph (f) to read as follows:

§ 71.0 Purpose and scope.

* * * * *

(f) This part also gives notice to all persons who knowingly provide to any licensee, certificate holder, quality assurance program approval holder, applicant for a license, certificate, or quality assurance program approval or to a contractor, or subcontractor of any of them, components, equipment, materials, or other goods or services, that relate to a licensee's, certificate holder's, or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 71.11.

26. Section 71.11 is added to read as follows:

§ 71.11 Deliberate misconduct.

(a) This section applies to any—

- (1) Licensee;
- (2) Certificate holder;
- (3) Quality assurance program approval holder;
- (4) Applicant for a license, certificate, or quality assurance program approval;
- (5) Contractor (including a supplier or consultant) or subcontractor, to any person identified in paragraphs (a)(1) through (a)(4) of this section; or
- (6) Employee of any person identified in paragraphs (a)(1) through (a)(5) of this section.

(b) A person identified in paragraph (a) of this section who knowingly provides to any entity, listed in paragraphs (a)(1) through (a)(5) of this section, any components, materials, or other goods or services that relate to a licensee's, certificate holder's, quality assurance program approval 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, quality assurance program approval holder, or any applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license, certificate or approval issued by the Commission; or
- (2) Deliberately submit to the NRC, a licensee, a certificate holder, quality assurance program approval holder, an

applicant for a license certificate or quality assurance program approval, or a licensee's, applicant's, certificate holder's or quality assurance program approval 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.

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

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

- (1) Would cause a licensee, certificate holder, quality assurance program approval holder or applicant for a license, certificate, or quality assurance program approval 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) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, applicant, contractor, or subcontractor.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

27. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15),

2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

28. Section 72.2 is amended by adding a new paragraph (f) to read as follows:

§ 72.2 Scope.

* * * * *

(f) This part also gives notice to all persons who knowingly provide to any licensee, certificate holder, applicant for a license or certificate, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's, certificate holder's, or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 72.12.

29. Section 72.12 is revised to read as follows:

§ 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.

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

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

30. The authority citation for Part 110 continues to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42 (a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 et seq.).

31. Section 110.1 is revised to read as follows:

§ 110.1 Purpose and scope.

(a) The regulations in this part prescribe licensing, enforcement, and rulemaking procedures and criteria, under the Atomic Energy Act, for the export of nuclear equipment and material, as set out in §§ 110.8 and 110.9, and the import of nuclear equipment and material, as set out in § 110.9a. This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 110.7b.

32. Section 110.7b is revised to read as follows:

§ 110.7b 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 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.

(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.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

33. The authority citation for Part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C.

2073). Section 150.15 also issued under secs. 135, 141, Pub.L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

34. Section 150.2 is revised to read as follows:

§ 150.2 Scope.

The regulations in this part apply to all States that have entered into agreements with the Commission or the Atomic Energy Commission pursuant to subsection 274b of the Act. This part also gives notice to all persons who knowingly provide to any licensee, applicant for a license or certificate or quality assurance program approval, holder of a certificate or quality assurance program approval, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, certificate holder's, quality assurance program approval holder's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of §§ 30.10, 40.10, 70.10 and 71.11.

Dated at Rockville, Maryland, this 30th day of September, 1996.

For the Nuclear Regulatory Commission.
William M. Hill,
Acting Secretary of the Commission.

[FR Doc. 96–25494 Filed 10–3–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–96–5]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation