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other entity which enters into an agreement with DOE.

[70 FR 3607, Jan. 26, 2005, as amended at 70 FR 8716, Feb. 23, 2005]

§ 824.3 Definitions.

As used in this part:

Act means the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*).

Administrator means the Administrator of the National Nuclear Security Administration.

Classified information means Restricted Data and Formerly Restricted Data protected against unauthorized disclosure pursuant to the Act and National Security Information that has been determined pursuant to Executive Order 12958, as amended March 25, 2003, or any predecessor or successor executive order to require protection against unauthorized disclosure and that is marked to indicate its classified status when in documentary form.

DOE means the United States Department of Energy, including the National Nuclear Security Administration.

Director means the DOE Official, or his or her designee, to whom the Secretary has assigned responsibility for enforcement of this part.

Person means any person as defined in section 11.s. of the Act, 42 U.S.C. 2014, and includes any affiliate or parent corporation thereof, who enters into a contract or agreement with DOE, or is a party to a contract or subcontract under a contract or agreement with DOE.

Secretary means the Secretary of Energy.

§ 824.4 Civil penalties.

(a) Any person who violates a classified information protection requirement of any of the following is subject to a civil penalty under this part:

(1) 10 CFR part 1016—Safeguarding of Restricted Data;

(2) 10 CFR part 1045—Nuclear Classification and Declassification; or

(3) Any other DOE regulation or rule (including any DOE order or manual enforceable against the contractor or subcontractor under a contractual provision in that contractor's or subcontractor's contract) related to the safeguarding or security of classified information if the regulation or rule provides that violation of its provisions may result in a civil penalty pursuant to subsection a. of section 234B. of the Act.

(b) If, without violating a classified information protection requirement of any regulation or rule under paragraph (a) of this section, a person by an act or omission causes, or creates a risk of, the loss, compromise or unauthorized disclosure of classified information, the Secretary may issue a compliance order to that person requiring the person to take corrective action and notifying the person that violation of the compliance order is subject to a notice of violation and assessment of a civil penalty. If a person wishes to contest the compliance order, the person must file a notice of appeal with the Secretary within 15 days of receipt of the compliance order.

(c) The Director may propose imposition of a civil penalty for violation of a requirement of a regulation or rule under paragraph (a) of this section or a compliance order issued under paragraph (b) of this section, not to exceed $100,000 for each violation.

(d) If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

(e) The Director may enter into a settlement, with or without conditions, of an enforcement proceeding at any time if the settlement is consistent with the objectives of DOE's classified information protection requirements.

§ 824.5 Investigations.

The Director may conduct investigations and inspections relating to the scope, nature and extent of compliance by a person with DOE security requirements specified in § 824.4(a) and (b) and take such action as the Director deems necessary and appropriate to the conduct of the investigation or inspection, including signing, issuing and serving subpoenas.

§ 824.6 Preliminary notice of violation.

(a) In order to begin a proceeding to impose a civil penalty under this part, the Director shall notify the person by