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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, certificate holder, quality assurance program approval holder, applicant, or the contractor or subcontractor of any of them.

§ 71.9 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 of 1954, as amended, or the Energy Reorganization Act of 1974, as amended.

(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 require-

ments imposed under either of those 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; and

(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's assistance or participation.

(3) This section has no application 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, certificate holder, applicant for a Commission license or a CoC, or a contractor or subcontractor of any of these may be grounds for:

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

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

(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 current 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. 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) 415-7232, via e-mail to FORMS.Resource@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 a protected activity as defined in paragraph (a)(1) of this sec-

tion 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.

[69 FR 3786, Jan. 26, 2004, as amended at 72 FR 63975, Nov. 14, 2007; 73 FR 30459, May 28, 2008]

§ 71.10 Public inspection of application.

Applications for approval of a package design under this part, which are submitted to the Commission, may be made available for public inspection, in accordance with provisions of parts 2 and 9 of this chapter. This includes an application to amend or revise an existing package design, any associated documents and drawings submitted with the application, and any responses to NRC requests for additional information.

§ 71.11 Protection of Safeguards Information.

Each licensee, certificate holder, or applicant for a Certificate of Compliance for a transportation package for transport of irradiated reactor fuel, strategic special nuclear material, a critical mass of special nuclear material, or byproduct material in quantities determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security, shall protect Safeguards Information against unauthorized disclosure in accordance with the requirements in § 73.21 and the requirements of § 73.22 or § 73.23 of this chapter, as applicable.

[73 FR 63572, Oct. 24, 2008]

Subpart B—Exemptions

SOURCE: 69 FR 3786, Jan. 26, 2004, unless otherwise noted.

§ 71.12 Specific exemptions.

On application of any interested person or on its own initiative, the Commission may grant any exemption from the requirements of the regulations in this part that it determines is authorized by law and will not endanger life or property nor the common defense and security.