§ 824.1 Purpose and scope.

This part implements subsections a., c., and d. of section 234B. of the Atomic Energy Act of 1954 (the Act), 42 U.S.C. 2282b. Subsection a. provides that any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation or order under the Act relating to the security or safeguarding of Restricted Data or other classified information, shall be subject to a civil penalty not to exceed $100,000 for each violation. Subsections c. and d. specify certain additional authorities and limitations respecting the assessment of such penalties.

EFFECTIVE DATE NOTE: At 74 FR 66033, Dec. 14, 2009, § 824.1 was amended by revising the second sentence, effective January 13, 2010. For the convenience of the user, the revised text is set forth as follows:

§ 824.1 Purpose and scope.

* * * Subsection a. provides that any person who has entered into a contract or agreement with the Department of Energy, or a subcontract or subagreement thereto, and who violates (or whose employee violates) any applicable rule, regulation or order under the Act relating to the security or safeguarding of Restricted Data or other classified information, shall be subject to a civil penalty not to exceed $110,000 for each violation. * * *

§ 824.2 Applicability.

(a) *General.* These regulations apply to any person that has entered into a contract or agreement with DOE, or a subcontract or sub-agreement thereto.

(b) *Limitations.* DOE may not assess any civil penalty against any entity (including subcontractors and suppliers thereto) specified at subsection d. of section 234A of the Act until the entity enters, after October 5, 1999, into a new contract with DOE or an extension of a current contract with DOE, and the total amount of civil penalties may not exceed the total amount of fees paid by the DOE to that entity in that fiscal year.

(c) *Individual employees.* No civil penalty may be assessed against an individual employee of a contractor or any 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