

Matter To Be Considered:

7963 *Marine Accident Report*—
Heeling Accident on M/V Crown
Princess, Atlantic Ocean Off Port
Canaveral, Florida, July 18, 2006.
News Media Contact: Telephone:
(202) 314-6100.

Individuals requesting specific
accommodations should contact Chris
Bisett at (202) 314-6305 by Friday,
January 4, 2008.

The public may view the meeting via
a live or archived webcast by accessing
a link under “News & Events” on the
NTSB home page at www.nts.gov.

For Further Information Contact:
Vicky D’Onofrio, (202) 314-6410.

Dated: December 28, 2007.

Vicky D’Onofrio,

Federal Register Liaison Officer.

[FR Doc. 07-6294 Filed 01-04-08; 8:45 am]

BILLING CODE 7533-01-PM

**NUCLEAR REGULATORY
COMMISSION**

**Imposition of Civil Penalty on
Contractors and Subcontractors Who
Discriminate Against Employees for
Engaging in Protected Activities**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Policy Statement: Revision.

SUMMARY: The Nuclear Regulatory
Commission (NRC) is revising its
Enforcement Policy to include
contractors and subcontractors of a
licensee against whom the Commission
may impose a civil penalty for
discriminating against employees for
engaging in protected activities.

DATES: Effective date: This action is
effective February 6, 2008. Comment
date: Comments on this revision should
be submitted by March 7, 2008. The
Commission will apply the modified
Policy to violations that occur after the
effective date.

ADDRESSES: Submit written comments
to: Michael T. Lesar, Chief, Rules and
Directives Branch, Division of
Administrative Services, Office of
Administration, Mail Stop: T6D59, U.S.
Nuclear Regulatory Commission,
Washington, DC 20555-0001. Hand
deliver comments to: 11555 Rockville
Pike, Rockville, MD 20852, between
7:30 a.m. and 4:15 p.m., Federal
workdays. Copies of comments received
may be examined at the NRC Public
Document Room, Room O1F21, 11555
Rockville Pike, Rockville, MD 20852.
You may also e-mail comments to
nrcprep@nrc.gov.

The NRC maintains the current
Enforcement Policy on its Web site at
<http://www.nrc.gov>; select “About
NRC”, “Organization and Functions”,
“Office of Enforcement”, “About
Enforcement”, then “Enforcement
Policy”.

FOR FURTHER INFORMATION CONTACT:
Doug Starkey, Office of Enforcement,
U.S. Nuclear Regulatory Commission,
Washington DC 20555-0001; Telephone
(301) 415-3456; e-mail drs@nrc.gov.

SUPPLEMENTARY INFORMATION: The
Commission amended 10 CFR 30.7,
40.7, 50.7, 52.5, 60.9, 61.9, 63.9, 70.7,
71.9, 72.10 and 76.7 to clarify the
Commission’s authority to impose civil
penalties on contractors and
subcontractors for violations of
Commission employee protection
requirements. The changes to the
Enforcement Policy hereunder
incorporate the recent clarifying
revisions set forth in the referenced
employee protection regulations.

Paperwork Reduction Act

This final change to the NRC
Enforcement Policy does not contain
new or amended information collection
requirements subject to the Paperwork
Reduction Act of 1995 (44 U.S.C. 3501,
et seq.).

Public Protection Notification

If a means used to impose an
information collection does not display
a currently valid OMB control number,
the NRC may not conduct or sponsor,
and a person is not required to respond
to, the information collection.

**Small Business Regulatory Enforcement
Fairness Act**

In accordance with the Small
Business Regulatory Enforcement
Fairness Act of 1996, the NRC has
determined that this action is not a
“major” rule and has verified this
determination with the Office of
Information and Regulatory Affairs,
Office of Management and Budget.

Accordingly, the NRC Enforcement
Policy is amended to read as follows:

General Statement of Policy and
Procedure for NRC Enforcement Actions
* * * * *

I. Introduction and Purpose

* * * * *

Footnote 1

This policy primarily addresses the
activities of NRC licensees and
applicants for NRC licenses. However,
this policy provides for taking
enforcement action against non-
licensees and individuals in certain

cases. These non-licensees include
contractors and subcontractors, holders
of, or applicants for, NRC approvals,
e.g., certificates of compliance, early site
permits, or standard design certificates,
and the employees of these non-
licensees. Specific guidance regarding
enforcement action against individuals
and non-licensees is addressed in
Sections VII, VIII and X.

* * * * *

VI. Enforcement Actions

* * * * *

C. Civil Penalty

A civil penalty is a monetary penalty
that may be imposed for violation of (1)
certain specified licensing provisions of
the Atomic Energy Act or
supplementary NRC rules or orders; (2)
any requirement for which a license
may be revoked; or (3) reporting
requirements under section 206 of the
Energy Reorganization Act. Civil
penalties are designed to deter future
violations both by the involved licensee,
contractor, subcontractor or other
person and other licensees, contractors,
subcontractors or other persons,
conducting similar activities. Civil
penalties also emphasize the need for
licensees, contractors, subcontractors
and other persons to identify violations
and take prompt comprehensive
corrective action.

* * * * *

VII. Exercise of Discretion

* * * * *

B. Mitigation of Enforcement Sanctions

* * * * *

5. Violations Involving Certain
Discrimination Issues

Enforcement discretion may be
exercised for discrimination cases when
a licensee (including a contractor or
subcontractor) who, without the need
for government intervention, identifies
an issue of discrimination and takes
prompt, comprehensive, and effective
corrective action to address both the
particular situation and the overall work
environment for raising safety concerns.
Similarly, enforcement may not be
warranted where a complaint is filed
with the Department of Labor (DOL)
under Section 211 of the Energy
Reorganization Act of 1974, as
amended, but the licensee settles the
matter before the DOL makes an initial
finding of discrimination and addresses
the overall work environment.
Alternatively, if a finding of
discrimination is made, the licensee
may choose to settle the case before the
evidentiary hearing begins. In such

cases, the NRC may exercise its discretion not to take enforcement action when the licensee has addressed the overall work environment for raising safety concerns and has publicized that a complaint of discrimination for engaging in protected activity was made to the DOL, that the matter was settled to the satisfaction of the employee (the terms of the specific settlement agreement need not be posted), and that, if the DOL Area Office found discrimination, the licensee has taken action to positively reemphasize that discrimination will not be tolerated. Similarly, the NRC may refrain from taking enforcement action if a licensee settles a matter promptly after a person comes to the NRC without going to the DOL. Such discretion would normally not be exercised in cases in which the licensee does not appropriately address the overall work environment (*e.g.*, by using training, postings, revised policies or procedures, any necessary disciplinary action, etc.), to communicate its policy against discrimination) or in cases that involve: Allegations of discrimination as a result of providing information directly to the NRC; allegations of discrimination caused by a manager above first-line supervisor (consistent with current Enforcement Policy classification of Severity Level I or II violations); allegations of discrimination where a history of findings of discrimination (by the DOL or the NRC) or settlements suggests a programmatic rather than an isolated discrimination problem; or allegations of discrimination which appear particularly blatant or egregious.

Generally, the NRC holds licensees responsible for maintaining control and oversight of their contractor and subcontractor activities. As such, in cases involving licensee contractors and subcontractors, the NRC will typically take enforcement action against a licensee for violations arising out of the acts of its contractor or subcontractor. In addition, enforcement action (including a civil penalty) may be taken against the licensee contractor or subcontractor. On occasion, however, circumstances may arise where the NRC may refrain from taking enforcement action or imposing a civil penalty against a licensee even though it takes enforcement action or issues a civil penalty, against the licensee contractor or subcontractor.

* * * * *

Dated at Rockville, Maryland, this 28th day of December, 2007.

For the Nuclear Regulatory Commission.
Annette Vietti-Cook,
Secretary of the Commission.
 [FR Doc. E7-25629 Filed 1-4-08; 8:45 am]
BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket No. ACR2007]

FY 2007 Annual Compliance Report; Comment Request

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: As required by 39 U.S.C. 3652, the Postal Service has filed an Annual Compliance Report with the Postal Regulatory Commission on the costs, revenues, rates, and quality of service associated with its products in fiscal year 2007. Within 90 days, the Commission must evaluate that information and issue its determination as to whether rates were in compliance with title 39, chapter 36 and whether service standards in effect were met. To assist in this, the Commission seeks public comments on the Postal Service's FY 2007 Annual Compliance Report.

DATES: Comments due January 30, 2008; reply comments due February 13, 2008.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-789-6820 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: Section 3652 of title 39 of the United States Code requires the Postal Service to file a report with the Postal Regulatory Commission on the costs, revenues, rates, and quality of service associated with its products within 90 days after the close of each fiscal year. That section requires that the Postal Service's annual report be sufficiently detailed to allow the Commission and the public to determine whether the rates charged and the service provided comply with all of the requirements of title 39 of the United States Code. See 39 U.S.C. 3652(a)(1) and (e)(1)(A). The Postal Service filed its annual compliance report for FY 2007 with the Commission on December 28, 2007. Appended to it are four major sets of data—the Cost and Revenue Analysis (CRA), the International Cost and Revenue Analysis (ICRA), the models of costs

avoided by worksharing, and billing determinant information.¹

After receiving the FY 2007 Annual Compliance Report, the Commission is required under 39 U.S.C. 3653 to provide an opportunity for comment to the interested public and an officer of the Commission to represent the interests of the general public. The Commission hereby solicits public comment on the degree to which the Postal Service's operations and financial results comply with the policies of title 39. Comments by interested persons are due on or before January 30, 2008. Reply comments are due on February 13, 2008.²

The Commission is aware that these are shorter comment periods than those that the Commission has provided in other recent notice and comment proceedings. The statute affords the Commission 90 days to digest the report filed by the Postal Service and evaluate the Postal Service's compliance with the broad range of policies articulated in title 39. Expediting public comment is essential if the Commission is to have sufficient time to take the public's concerns into account in making its evaluation.³

The context in which the Postal Service has filed its annual report for FY 2007 is unique in several respects. It is the first compliance report that the Postal Service has filed after passage of the Postal Accountability and Enhancement Act of 2006 (PAEA). Fiscal Year 2007 was a transition period during which the rate-setting criteria of the former Postal Reorganization Act (PRA) remained in force. The Postal Service suggests that FY 2007 rates and service should be analyzed for compliance with the rate-setting criteria of the PRA rather than the PAEA. *Id.* at 1. In its report, the Postal Service applies the rate-setting criteria of the PRA to the then-existing subclasses and concludes that FY 2007 rates and service fully complied with title 39. *Id.* at 6 and 22. Emphasizing the difficulty of developing a crosswalk between then-existing subclasses and the current list of products, the Postal Service does not

¹ United States Postal Service FY 2007 Annual Compliance Report, December 28, 2007 (FY 2007 Annual Compliance Report).

² The officer of the Commission in this matter will be appointed shortly.

³ Expedition may have an additional benefit. There is the possibility that the Postal Service may file notice of a general rate adjustment sometime in February under the provisions of 39 U.S.C. 3622(d)(1)(C). This possibility has been discussed informally throughout the postal community. If public comments on the Postal Service's annual report identify potential problem areas several weeks in advance of the Postal Service's rate filing, this may inform or influence the Postal Service's pricing decisions.