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NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[NRC–2022–0155]

Insider Mitigation Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 5.77, ''Insider Mitigation Program,'' to provide licensees and applicants with agency approved guidance for complying with NRC regulations. RG 5.77 applies to nuclear power reactors that contain protected or vital areas. Licensees should use defense-in-depth methodologies to minimize the potential for an insider to adversely affect, either directly or indirectly, the licensee's capability to prevent significant core damage or spent fuel sabotage.

DATES: Revision 1 of RG 5.77 is available on September 8, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0155 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0155. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's Public Document Room (PDR), Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

Revision 1 of RG 5.77 and the regulatory analysis may be found in ADAMS under Accession Nos. ML16342B024 and ML14002A294, respectively.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Mark Resner, telephone: 301–287–3680, email: *Mark.Resner@nrc.gov* or Brad Baxter, telephone: 301–287–3615, email: *Brad.Baxter@nrc.gov,* both are staff of the Office of Nuclear Security and Incident Response; and Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301–415–1699, email: *Mekonen.Bayssie@nrc.gov.* All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

The proposed Revision 1 of RG 5.77 was issued with a temporary identification number of draft Regulatory Guide (DG) 5044. On January 4, 2016, the NRC sent an email (ML16007A565) transmitting the DG for comment to cleared stakeholders who demonstrated a need-to-know and possessed the required access clearance. The stakeholders' comment period closed on March 4, 2016. Stakeholders' comments on DG–5044 and the staff responses to the public comments are available under ADAMS Accession No. ML22152A224.

II. Additional Information

The NRC did not announce the availability of the draft RG for public comment because the guide was originally marked as containing information designated as ''Official Use Only-Security Related Information.'' The Commission directed the NRC staff to edit the document for consistency, accuracy, formatting, and a determination regarding which content should be marked ''Unclassified'' and ''Official Use Only—Security Related Information'' in accordance with Staff Requirement Memorandum (SRM)—SECY–17–0095—Review and Approval of Proposed Revision to RG 5.77, ''Insider Mitigation Program,'' dated July 14, 2021 (ADAMS Accession No. ML21195A356). The staff critically examined the designation of the document and determined it should not be designated as ''Official Use Only—Security Related Information.'' In consideration of the stakeholders' comments and the SRM, the staff revised the document and is issuing this notice to inform the public of the issuance of the final RG.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

Revision 1 of RG 5.77 describes methods acceptable to the NRC staff for complying with the NRC's regulations to meet the regulatory requirements in paragraphs 73.55(b)(9) and 73.55(b)(9)(ii) of title 10 of the *Code of Federal Regulations* (10 CFR), such that a licensee shall establish, maintain, and implement an Insider Mitigation Program (IMP) and shall describe the

program in the Physical Security Plan. The IMP must contain elements from the following licensee programs: access authorization, fitness-for-duty, cyber security, and physical protection. Issuance of this RG, would not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,'' constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52, ''Licenses, certifications, and approvals for nuclear power plants.'' As explained in RG 5.77, applicants and licensees would not be required to comply with the positions set forth in RG 5.77.

V. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html.* Suggestions will be considered in future updates and enhancements to the ''Regulatory Guide'' series.

Dated: August 30, 2022.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2022–19320 Filed 9–7–22; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 110 and 116

[Notice 2022–17]

Repayment of Candidate Loans

AGENCY: Federal Election Commission.

ACTION: Interim final rule.

SUMMARY: The Federal Election Commission (''Commission'') is removing regulatory restrictions on authorized committees' repayment of candidate personal loans. The Commission is taking this action in light of the Supreme Court's recent decision in *Federal Election Commission* v. *Ted Cruz for Senate,* which held that the statutory provision implemented by those regulations is unconstitutional. The Commission is accepting comments on these revisions to its regulations.

DATES: The effective date is November 30, 2022. Comments must be received on or before October 11, 2022.

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's website at *https://sers.fec.gov/fosers/,* reference REG 2022–01. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Mr. Robert M. Knop, Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Joseph P. Wenzinger, Attorney, 1050 First Street NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 2022, the Supreme Court of the United States ruled in *Federal Election Commission* v. *Ted Cruz for Senate* that section 304 of the Bipartisan Campaign Reform Act of 2002 (''BCRA'') violates the Free Speech Clause of the First Amendment of the United States Constitution. 142 S.Ct. 1638 (2022). The Supreme Court's ruling affirmed the same holding of the U.S. District Court for the District of Columbia. *Ted Cruz for Senate* v. *Federal Election Commission,* 542 F. Supp. 3d 1 (D.D.C. 2021). The Commission is now removing the regulations implementing this unconstitutional statute.

The Commission is taking this action without advance notice and comment because it falls under the ''good cause'' exception of the Administrative Procedure Act (''APA''), 5 U.S.C. 553(b)(B). The revisions set forth herein are necessary to conform the Commission's regulations to the Supreme Court's holding that the statutory restrictions on authorized committees' repayment of candidate personal loans are unconstitutional. *Ted Cruz for Senate,* 142 S.Ct. at 1656. Because this action does not involve any Commission discretion or policy judgments, notice and comment are unnecessary. 5 U.S.C. 553(b)(B), (d)(3). A pre-publication notice and comment period would also be contrary to the public interest because the 2022 election campaigns for Federal office are ongoing, and so the delay that would result in such a notice and comment period might cause confusion among Federal candidates and the public as to the enforceability of the regulations addressed below. *Id.*

Moreover, because this interim final rule is exempt from the APA's notice and comment procedure under 5 U.S.C. 553(b), the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(a), 604(a).

Transmission of Final Rules to Congress

Before final promulgation of any rules or regulations to carry out the provisions of the Federal Election Campaign Act (''the Act''), the Commission transmits the rules or regulations to the Speaker of the House of Representatives and the President of the Senate for a thirty-legislative-day review period. 52 U.S.C. 30111(d). The effective date of this final rule is November 30, 2022.

Explanation and Justification

The Act provides two methods for the funding of Federal campaigns. First, funding may come from individual contributions to the campaign, which are subject to a per-election limits. *See* 52 U.S.C. 30116(a)(1)(A) (placing limits on contributions from individuals to candidates and their authorized political committees). Second, candidates may self-finance their campaigns, with no limits on the amount a candidate may contribute to his or her campaign committee. 11 CFR 110.10; *see also Buckley* v. *Valeo,* 424 U.S. 1, 51–54 (1976) (holding that restriction on candidate's personal expenditures is unconstitutional).

At the same time, however, section 304 of BCRA places limits on candidates' ability to finance their campaigns through personal loans. Under that statutory provision, a candidate's authorized committee may repay all of a candidate's personal loans with contributions made before or on the date of the election, but may repay only up to $250,000 of a candidate's pre-election loans with post-election