

From: Vonna Ordaz
To: Jack Strosnider, Jon Johnson, Roy Zimmerman
Date: Wed, Dec 13, 2000 5:36 PM
Subject: Fwd: 50.9

I asked OE the question of whether or not we have ever issued a 50.9 violation based upon telephone call (oral) information. OE consulted with the regions, checked their database, and provided the attached response. Please let me know if you have any further questions.

Thanks,

Vonna
x2833

S/7

From: James Luehman
To: Vonna Ordaz
Date: Wed, Dec 13, 2000 4:37 PM
Subject: 50.9

After talking with the regions, looking at EATS and consulting Jim Lieberman I could not find a case where we took 50.9 action based solely on an oral statement. The best cases I could find were a River Bend case (EA 98-132) which was based in part on such a statement and the infamous Vogtle case (EA 93-304) which was based in part on oral statements made in a meeting with the NRC.

Actions against licensees for such actions are rare because 1) now in many of the instances where it does occur, we would take action for inaccurate oral statements but normally we concluded that they were deliberate and on the part of the individual to protect himself so we go after 50.5 or the equivalent reg and leave the company out of it and 2) The SOC for 50.9 makes it clear that the threshold for a violation of 50.9 for an oral statement is higher because it is oral. That is not to say if the person who makes the statement clearly knows the agency will rely on the statement and he or she does not ensure its adequacy or provide the agency the appropriate disclaimers about its accuracy that we should not go after them, it just means we have to have a strong case.

EA 98-132 was Dave's case. EA 93-304 was Renee's.

CC: David Nelson, Renee Pedersen, Richard Borchardt

From: Bill Bateman
To: Roy Zimmerman
Date: Thu, Sep 7, 2000 2:46 PM
Subject: IP2 1997 Telecon Notes

In response to our earlier conversation, I spoke with John Tsao, Jeff Harold (who was the PM at the time and was on the phone calls), and Phil Rush (who no longer works for NRC and who also was on the phone calls). The results follow:

o The notes covering the 5/27 call that state 'No indications were found in the row 2 or 3 U-bends...' imply the question was asked, i.e., the NRC asked the licensee if there were any defects identified in low row u-bends. Apparently, this was a standard question. We learned from Phil Rush that at the time of the 5/27 call, the licensee's inspection was about 90% complete. We had a follow-up call on 6/2 wherein the licensee discussed the final results of their inspection and did not report any u-bend defects. Because we had specifically asked about u-bend cracking on 5/27, if they had identified it subsequent to the 6/2 call, they certainly would have been obligated to correct the information they had passed to the NRC on 5/27. From this it would seem reasonable to assume they had inspected the tubes and reported no u-bend cracking.

o NRC folks recall that Con Ed did have technical expertise on the call, i.e., it was more than just licensing staff.

o Memories of those on the call from the NRC staff are not crystal clear at this time. The call does not stand out as a special one except Phil Rush was particularly interested in the Cecco probe activities as this was the first time the Cecco probe had been used anywhere in the US for a SG inspection.

o I asked about the sequence of inspecting a SG to try and determine that, if an inspection was 90% complete, could we assume the low row u-bends had been inspected. I couldn't get a definitive answer. It would probably be reasonable to assume they had, or at least reasonable enough to indicate that maybe the NRC could follow up to determine if there was an information transfer problem.

o There are some hand written notes from the June 3 phone call. They basically document the final number of defects in each SG, the results of insitu pressure test results, and list several items of information we requested regarding the Cecco probe.

CC: Brian Sheron, Edmund Sullivan, Emmett Murphy, J...