

From: David Vito /RT
To: Carl Mohrwinkel
Date: 10/1/02 1:40PM
Subject: Fwd: Re: Call to Allegor for 2002-A-0116 (The Bogus Pee Sample Guy)

Carl,

Per the attachment, I need your feedback pretty quickly on an item (by tomorrow, if possible). It's the age-old allegation question about OSHA issues, and whether or not contact with OSHA is required. We are closing a Hope Creek allegation that includes references to two industrial safety issues. One issue is vague and both issues are very dated (occurred last refueling outage - 10/2001).

One issue deals with a statement that was allegedly made by a maintenance superintendent that more or less acknowledged that people occasionally climb on equipment in the course of accomplishing their work activities. The allegor thought this was an inappropriate statement (no specifics were provided as to actual occasions when someone climbed on a piece of equipment and either got hurt or harmed the equipment). We are telling the allegor that we don't feel that the manager's statement was a deliberate authorization to "break safety rules," but rather a simple acknowledgment that workers will occasionally do this. The second issue had to do with air sampling for dust inhalation (during an insulation removal job). Since this issue also dealt with potential for radiological consequences, we processed the issue as an allegation and referred it to the licensee. We felt that the licensee's response was great, in that they took air samples, provided the sample results to the workers, and told them that even though the sample results indicated that there was not an industrial safety hazard, they could go to the hospital and get checked out anyway at the licensee's expense (some workers took them up on the offer, some did not.)

The question: In the past we have lobbied with Ed that it is not necessary for the NRC to call OSHA on all occasions, only on those that appear to be appropriately significant and/or currently occurring. While Ed agreed with us in principle, he did not think that NRC Manual Chapter 1007 gave us enough leeway to reach that conclusion, and asked that we treat everything conservatively and call OSHA on all allegations issues that are remotely related to industrial safety, no matter how non-specific, vague or dated. I have made several of these calls (I am the Region I OSHA Liaison Officer, when the RSLO and RSAO are not here), and on every occasion, I have been told that they don't want to hear about an issue unless its specific, and currently occurring. I asked Ed to re-consult with OSHA on this issue, but he didn't get to it before he left.

Also, I have learned that a new version of MC 1007 was issued in February 2002, so I reviewed it to see if there were any differences. To me, it pretty clearly limits the issues which require Regional or Office OSHA Liaison Officer involvement to those issues that are "significant (industrial) safety issues" and/or issues where "licensees demonstrate a pattern of unresponsiveness to identified concerns." In all other cases, the only action for the NRC (if the licensee does not already know about the issue), is to inform the licensee (without providing the source of the information, of course). For these more mundane items, MC 1007 doesn't even require the inspector (or the allegation coordinator for that matter) to contact the Regional or Office OSHA Liaison Officer.

Since the two issues above are very dated, are known to the licensee, are not "significant industrial safety issues" and are not going unchecked by PSEG, we don't feel that OSHA contact is required. The allegor will be provided with information to enable him to contact OSHA, if he so desires. Please let me know what you think. I will take whatever action you propose.

CC: Duncan White; Glenn Meyer; Gregory Cwalina; Richard Barkley; Robert Bores;
Sharon Johnson

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