



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

December 6, 2010

Eric Leeds, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Compliance with Federal Regulation 10 CFR 50.9, Completeness and Accuracy of Information

Dear Mr. Leeds:

Paragraph (a) in federal regulation 10 CFR 50.9 states:

Information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

By letter dated July 15, 2010, the licensee for the FitzPatrick nuclear plant submitted to the NRC corrections to the annual radiological effluent reports for years 2004 through 2008 (ML101970366).

By letter dated September 24, 2010, the licensee for the Oyster Creek nuclear plant submitted to the NRC revisions to the annual effluent report for 2009 (ML102950279).

Letters like these two strongly suggest that 10 CFR 50.9 was violated. After all, if the original submittals had been complete and accurate in all material respects, subsequent corrections would not have been necessary.

In citing these two letters, UCS is neither making formal allegations that these licensees violated 10 CFR 50.9 nor petitioning the NRC to take enforcement actions against these licensees. Instead, we seek to understand the NRC's process and associated criteria for determining when 10 CFR 50.9 violations exist.

By letter dated October 8, 2010, the NRC identified an apparent violation of 10 CFR 50.9 by the licensee for the HB Robinson nuclear plant (ML102810633). The NRC contended that the licensee failed to provide complete and accurate information in a licensee event report submitted for an emergency diesel generator problem (ML091740067).

In the FitzPatrick and Oyster Creek cases, the NRC did not identify violations of 10 CFR 50.9 and took no enforcement action. In the Robinson case, the NRC identified an apparent violation of 10 CFR 50.9 and is pursuing enforcement action.

UCS presumes that there are valid factors and reasons why seemingly identical conditions have such disparate outcomes. We seek to understand these factors and reasons. We would appreciate answers to the following questions:

- 1) What management directive, office instruction, and/or other procedure defines the NRC staff's process for identifying apparent violations of 10 CFR 50.9?
- 2) If the process is not explicitly defined in procedures, how are apparent violations of 10 CFR 50.9 identified by the NRC?
- 3) If the NRC does not formally assess all licensee self-reported apparent violations of 10 CFR 50.9 (e.g., the FitzPatrick and Oyster Creek corrections) for possible enforcement action, what criteria determines when such assessments are conducted?
- 4) When licensees self-report apparent violations of 10 CFR 50.9 (e.g., the FitzPatrick and Oyster Creek corrections), do NRC inspectors check to see whether licensees have entered the facts that incomplete/inaccurate information was submitted to the NRC into their corrective action programs? (In other words, does the NRC check to see if 10 CFR 50.9 violations are supplemented by 10 CFR 50 Appendix B violations?)

We look forward to your response and hopefully a more complete and accurate understanding of this matter.

Sincerely,

A handwritten signature in black ink that reads "David A. Lochbaum". The signature is written in a cursive, flowing style.

David Lochbaum
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