From:	Elliott, Robert
To:	Dave Lochbaum
Cc:	Taylor, Robert; King, Michael; McGinty, Tim; Lubinski, John; Dean, Bill
Subject:	RE: Low risk compliance issues
Date:	Tuesday, March 22, 2016 1:36:00 PM

Hi Dave,

Thank you for taking the time to review the presentation materials from our February 3rd public meeting and sending us your thoughts and concerns. You raise some interesting points. In response, I'd like to point out that the process we are considering is one that is focused on ensuring timely corrective action that is commensurate with the safety significance of the issue. It is not a process for identifying compliance issues which can then be ignored. I think you would agree that not every regulatory compliance issue is an immediate threat to public safety. This initiative is simply exploring how to effectively and efficiently identify low risk and low safety significance compliance issues, and then ensure that they are resolved in a timely manner.

The bottom line is that this initiative seeks to establish a structured risk-informed decision-making process that will ensure predictable outcomes that do not rely solely on staff knowledge to achieve resolution, consistent with our principles of good regulation. The process will help the staff to identify those low-risk compliance issues that are not an immediate threat to the public health and safety and allow licensees to more efficiently resolve them.

Again, I thank you for your time, and invite you to continue to participate in our public interactions as we continue to explore developing a process for enforcement discretion for low risk and low safety significance compliance issues.

Sincerely,
Rob Elliott

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From: Dave Lochbaum [mailto:DLochbaum@ucsusa.org]
Sent: Wednesday, February 24, 2016 12:16 PM
To: Elliott, Robert <Robert.Elliott@nrc.gov>
Cc: Dean, Bill <Bill.Dean@nrc.gov>
Subject: [External_Sender] Low risk compliance issues

Hello Rob:

I reviewed your slides (see https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML16048A145) for the February 3, 2016, public meeting on the NRC's plans to even further downplay ensuring compliance with federal safety regulations. You are better than this.

Why in heck should the public even bother to comment on NRC's proposed rules and license amendment requests if the agency shows so little interest in enforcing regulatory requirements?

Better still, does any one within NRC recall its horrendous performance leading up to the Davis-Besse debacle of 2002? If so, they might share my concerns about replicating that dismal performance. They would remember that NRC resident inspectors raised concerns circa 2000 with the need for workers to replace clogged air filters on the air monitors inside containment. But their NRC branch chiefs, invoking the fact that the air monitors where perceived to be "low risk compliance issues" directed the resident inspectors to ignore them and focus on high risk compliance issues. Way to miss not an elephant in the room but a entire pack of pachyderms.

Or, perhaps some NRC staffers still recall the March 1979 accident at Three Mile Island. The initiating event was the 13th time in 12 months that condensate/feedwater problems tripped the reactor. The recurring problems were tolerated and not resolved because the condensate/feedwaters are BOP side and not NSSS side --- in other words, perceived as being "low risk compliance issues."

So, the worst accident - so far - in U.S. nuclear plant history and the closest near miss since it both had low risk compliance issues as contributing causes. Lets' really not do that again.

There's a better way to achieve the goal being sought. All the NRC has to do is label these safety issues as licensing actions. That's all that would be needed to lessen the resources needed.

Look at the NRC's ability to resolve licensing actions:

PERFORMANCE BUDGET PLAN					
Output Measure	**FY 2011 Actual**	**FY 2012 Actual**	**FY 2013 Actual**	**FY 2014 Goals**	**FY 2014 Actual**
Licensing actions completed per year	849	770	668	900	607
Age of inventory of licensing actions	90.3% ≤ 1 year and 99.9% ≤ 2 years	95.8% ≤ 1 year and 100% ≤ 2 years	95% ≤ 1 year and 100% ≤ 2 years	95% ≤ 1 year and 100% ≤ 2 years	87% ≤ 1 year and 99% ≤ 2 years
Other licensing tasks completed per year	465	674	529	500	402
Age of inventory of other licensing tasks	94.2% ≤ 1 year and 99.6% ≤ 2 years	94.6% ≤ 1 year and 100% ≤ 2 years	97.6% ≤ 1 year and 100% ≤ 2 years	97.6% ≤ 1 year and 100% ≤ 2 years	87% ≤ 1 year and 99% ≤ 2 years

This table comes from this NRC report to the U.S. Congress:
http://www.nrc.gov/reading-rm/doc-collections/congress-docs/correspondence/2014/whitehouse-11-26-2014.pdf

Just look at the hundreds of licensing actions and tasks getting resolved within two years. Hundreds of them. Nearly all resolved within two years.

So, all NRC needs to do is label "tornado missile protection" as a "licensing action," or even as a "licensing task," and slip it onto this fast track process.

The safety issues would get resolved within two years, along with all them licensing actions. The NRC would actually be protecting the public instead of figuring out more ways to have the public shoulder the burden from living next to operating reactors with known safety non-compliances.

Out of curiosity, do you reckon the Japanese regulator considered the tsunami hazard at Fukushima to be a low risk compliance issue before March 11, 2011? Or did they have some other lame excuse for tolerating the intolerable?

The NRC's job is to establish and enforce safety regulations that protect the public. It's not pick one; it's both.

Thanks,
Dave Lochbaum
UCS