



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

October 24, 1997

IA 97-82

Mr. Douglas Foley  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.790]

SUBJECT: NRC OFFICE OF INVESTIGATION REPORT NO. 1-95-032S

Dear Mr. Foley:

This is in reference to an investigation by the NRC Office of Investigations which identified two material receipt records you prepared that were not complete and accurate in all material respects.

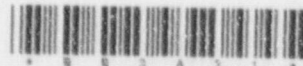
It appears that in 1994 you prepared a Material Receipt Inspection Record addressing your inspection of 20 safety-related 120 vdc batteries that would indicate to the reader that you had physically inspected each of these batteries. Rather, it appears that you only inspected one battery and relied on the packaging information for the other 19 batteries. It was later identified that there were defects with some of these batteries. In response to this incident you stated that the instructions did not direct you to open the battery cartons. In 1995 you initialed a Material Receipt Inspection Record indicating that you had inspected two swagelock fittings (which could have been used in safety-related applications) including dimensional checks with calipers. However, the fittings were in plastic bags hermetically sealed. Again you apparently did not open the container. It is not clear how you could have measured the dimensions with precision through the plastic. In response to this incident you stated that you had put the fittings on hold because another test could not be done. However, in light of your sign off, there was not a reasonable expectation that the dimensions would again be checked.

NRC has carefully considered both of these matters. These incidents demonstrated inadequate quality assurance performance and resulted in incomplete and inaccurate records. NRC and its licensees must be able to rely on quality assurance workers to properly perform their duties and maintain accurate and complete records. Your performance in these incidents is of concern to the NRC whether you did them intentionally or with inadvertence.

After consideration of the circumstances surrounding these incidents, the time that has past, and the fact that you are not currently engaged in licensed activities, NRC is not initiating formal enforcement action against you.

You are on notice that 10 CFR 50.5, Rule on Deliberate Misconduct, provides for civil action against employees of licensees who knowingly provide incomplete or inaccurate information to either the NRC or a licensee or deliberately cause licensees to be in violation of NRC requirements. Civil action can include issuing orders to remove individuals from licensed activities. You should also be aware that willful violations and the submittal of false information may result in criminal prosecution.

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PDR I&E  
MISC PDR



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Mr. Douglas Foley

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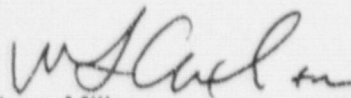
Should you be involved in nuclear activities in the future, we expect that you will properly carry out your responsibilities in accordance with requirements of the Commission and assure that records you prepare are complete and accurate. Failure to meet the Commission's requirements in the future may result in enforcement action against you.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days of the date of this letter at U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, PA 19406.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, records or documents compiled for enforcement purposes are placed in the NRC Public Document Room (PDR). A copy of this letter with your address removed, and your response, if you choose to submit one, will be placed in the PDR 45 days after the date of this letter (unless you provide sufficient basis to withdraw this letter). At that time, a copy also will be provided to Boston Edison Company.

If you have any questions concerning this letter, please contact Mr. Lieberman at (301) 415-2741.

Sincerely,



Hubert Miller  
Regional Administrator

Enclosure: Deliberate Misconduct Rule

cc w/encl: \*  
T. Boulette, BECo  
Commonwealth of Massachusetts

\*Hold for 45 days and verify through the Director, Office of Enforcement, for placement in the PDR.

50.4(d)

## PART 50 • DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

**(d) Delivery of communications.**

Written communications may be delivered to the Document Control Desk at 11555 Rockville Pike, Rockville, Maryland between the hours of 8:15 a.m. and 4:00 p.m. Eastern Time. If a submittal due date falls on Saturday, Sunday, or Federal holiday, the next Federal working day becomes the official due date.

**(e) Regulation governing submission.**

Licenses and applicants submitting correspondence, reports, and other written communications pursuant to the regulations of this part are requested but not required to cite whenever practical, in the upper right corner of the first page of the submittal, the specific regulation or other basis, requiring submission.

**(f) Conflicting requirements.** The communications requirements contained in this section and §§ 50.12, 50.30, 50.36, 50.36a, 50.44, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.62, 50.71, 50.73, 50.82, 50.90, and 50.91 supersede and replace all existing requirements in any license conditions or technical specifications in effect on January 5, 1987. Exceptions to these requirements must be approved by the Information and Records Management Branch, Nuclear Regulatory Commission, Washington, DC 20545. Telephone (301) 415-7230.

**§ 50.5 Deliberate misconduct.**

(a) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part: may not:

(1) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission, or

(2) Deliberately submit to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Commission, or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

**§ 50.7 Employee protection.**

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of the section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

Mr. Douglas Foley

DISTRIBUTION W/O Encl and W/Home Address Removed: \*Hold for 45 days and verify through the Director, Office of Enforcement, for placement in the PDR

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Enforcement Coordinators

Ri, RiI, RiII, RiV

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