

Nov 7, 1996
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Secretary of US NRC,

Comment on Fed. Reg. page 51835-20 Vol. 61 No. 194
Friday OCT 4, 1996 Proposed Rule on Deliberate Misconduct
by Unlicensed Persons.

I find it strange that since the NRC was already aware of its lack of ability to take enforcement action in the Dr. Orem case in 1993, that NRC waited to propose this rule until the end of 1996 - 3 years later! Why?

I also find it ominous that the example in the proposed rule in the Fed. Reg. refers several times to a spent fuel cask certified on the basis of falsified test data. As explained, such a situation has a serious potential for injury.

Once again I find the NRC lax in preparing for dry cask possible situation. Instead, since dry cask designs have been certified, the NRC has been playing "catch up" in inspection requirements, as well as the "action plan" and enforcement bases. Site analysis, pad testing, inspection plans, training of inspectors, etc. etc. all seem to be the result of problems (often revealed by the public). When dry cask storage was proposed - that was the time for NRC to research all this and have all these plans and requirements in place before any designs were certified. The VSC-24 was already built before certified (for Palisades), the pad was built before soil tests were made, casks were loaded when an inadequate

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unloading procedures were developed — and cashes were certified with nobody checking for coating and other material reactions in loading, storage, and transport and unloading. Who do we blame? The NRC? The licensees (utilities)? The vendors? The subcontractors? In the case of the VSC-24 exploding at Pt. Beach, I have yet to see any enforcement. * Please tell me what is the result of that case?

Did Sierra present any incomplete or inaccurate information? Did Pt. Beach? Did Palisades? Who is using the information from the SAR that is no longer accurate for the overcharging design of the cash? Why is that certifying SAR not amended to be accurate and complete for use by future licensees?

I find it encouraging that NRC now sees fit to take enforcement actions against vendors of cashes (holders of dry cash certificates of Compliance) and against their subcontractors. However, I find it very lax on the part of NRC that this wasn't put into rulemaking in 1993. Instead, in 1993, NRC rushed through the certification of the VSC-24 and allowed Palisades an exemption to have Sierra kind the cashes before that even happened. The result of VSC-24 problems has created a lack of trust by the public in the safety of dry cash storage.

This proposed rule of enforcement for deliberate mis conduct needs to be put

in action as soon as possible. The word "deliberate" bothers me. It seems like the burden of proof of this lies with the NRC. How easy are you going to make it for a cash vendor or subcontractor to make excuses for inaccurate information and incomplete information? Once cash is loaded, are you just going to say "correct the information so it is now accurate and complete, and will forget the whole thing?" It is very clear that now is the time for NRC to take strong action and clarify its powers of enforcement. Licensees, vendors, and subcontractors, need to know right now that they are going to be held accountable and that so called "cultural problems" (I still don't understand that NRC term) with Quality Assurance will absolutely not be tolerated in any way. So far, the "I didn't know or I didn't understand" attitude of any cash vendors and licensees has been all too readily accepted by NRC. The baby-stage is over now. Accept no more such excuses. Your responsibility is to the public safety and we need to know that you are there to enforce the rules. Please finalize this proposed rule as soon as possible. As long as it is only proposed public safety is in jeopardy.

Thank you,

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