

2. The process for screening potential noncompliances, reporting nuclear safety noncompliances into the Noncompliance Tracking System (NTS) and tracking matters internally that fall below the NTS reporting threshold has been formalized in a procedure.
3. The PAAA Coordinator maintains a log of issues that have been screened and determined to be noncompliances and documents the process by which matters are screened for NTS reportability.
4. This limited review did not identify any improper determinations on NTS reportability for the issues reviewed as part of the Price-Anderson process.
5. Issues identified as PAAA noncompliances, whether reportable into the NTS or tracked internally, are flagged in an Internal Tracking System and managed to resolution. It appears that, for the most part, such issues are managed to resolution in a timely manner.
6. The contractor has stated its intent to update its noncompliance evaluation and reporting procedure to incorporate new NTS reporting criteria, and to incorporate the findings in this review.

In this review, OE identified a number of areas of weakness in the Foster Wheeler program that require attention in order to be consistent with the DOE Enforcement Policy and implementing procedures on the identification and reporting of nuclear safety noncompliances. These include:

1. The documentation of decision making on PAAA applicability and NTS reportability maintained by the contractor Price-Anderson Coordinator is marginal at best and should more fully explain and justify the bases for each decision.
2. In the period covered by this review, which ended in September 2003, only a limited number of assessment findings and Corrective Action Reports (CAR) were identified in the PAAA Coordinator's screening log. In its discussions with OE, Foster Wheeler acknowledged only a limited number of issues were screened. However, the contractor has represented that in the period subsequent to its document submission at least 30 CARs have been screened. In addition, Foster Wheeler states that a large number of issues were identified and documented in assessments, including readiness reviews prior to initial operation late last year and early this year. This indicates that there were some potential PAAA issues last year connected with assessment activity and the use of corrective action processes, such as the CAR system. These areas are integral to the nuclear safety rule and it is important that management review them as part of its PAAA program. It is clear that these reports were not screened in a timely manner for potential noncompliances and reporting into the NTS or the local tracking system, as appropriate.

3. The current version of the screening and reporting procedure contains language that is at variance with accepted PAAA practices. In particular, OE noted the following:
 - a. The procedure refers to its NTS screening criteria as identifying problems that reflect "Unusual ORPS reports." DOE's NTS reporting criteria for ORPS matters includes other clarifying notes in addition to the ORPS criteria, and these are not reflected in the Foster Wheeler procedure. Further, the procedure failed to include criteria for reporting programmatic, repetitive and intentional violations.
 - b. The ORPS categories set forth in the procedure do not match the criteria set forth in the DOE guidance document. Indeed, it included several events and conditions that do not involve nuclear safety. Examples include vehicle incidents, environmental issues and security system deficiencies.
 - c. The procedure does not clearly state the full panoply of sources that the Coordinator must screen for PAAA noncompliances.
 - d. The definition of a PAAA noncompliance in the procedure is limited to violations of approved programs and procedures. Thus, it fails to include direct violations of the Nuclear Safety Rules that are not covered in program plans and procedures. Examples of matters not covered are issues of compliance with the Quality Improvement Rule (10 CFR 830.122(c)) and truth and accuracy in the provision of information to DOE (10 CFR 820. 11).

OE recognizes that Foster Wheeler has made an oral commitment to revise its PAAA identification and reporting procedures. A copy of that revision should be provided to the site Price-Anderson coordinator upon its completion. We hope these candid comments will assist Foster Wheeler in improving its PAAA identification and reporting program. We expect that such enhancements will result in improved nuclear safety performance by Foster Wheeler, since that is the primary purpose of the PAAA program. In addition, in the event of a future investigation of noncompliance issues at the site, the program improvements discussed above may permit the Office of Price-Anderson Enforcement to exercise discretion with respect to violations of nuclear safety requirements or to forego formal enforcement actions.

No reply to this letter is required. If you have any questions, please contact me at (301) 903-0100, or have your staff contact Howard Wilchins at (301) 903-0107.

Sincerely,



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