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U.S. Nuclear Regulator Lets Industry Help With the Fine Print

by John Sullivan, Special to ProPublica April 13, 2011, 8:05 p.m.



Ohio's Davis Besse Nuclear Power Station (US NRC)

In the fall of 2001, **inspectors with the Nuclear Regulatory Commission were so concerned about possible corrosion at Ohio's [Davis Besse Nuclear Power Station](#) [1] that they prepared an emergency order to shut it down for inspection. But, [according to a report](#) [2] from the NRC inspector general, **senior officials at the agency held off – in part because they did not want to hurt the plant's bottom line.****

When workers finally checked the reactor in February of 2002, they made an astonishing finding: Corrosive fluid from overhead pipes had eaten a football-sized hole in the reactor vessel's steel side. The only thing preventing a leak of radioactive coolant was a pencil-thin layer of stainless steel.

The Davis Besse incident has resurfaced in the wake of the ongoing nuclear crisis at Japan's Fukushima Daiichi plant. [Stories recounting close ties](#) [3] between Japanese nuclear regulators and utilities there have **reinvigorated critics who say the NRC has not been an aggressive enough U.S. watchdog.**

The NRC says that is not the case, and [commission Chairman Gregory Jaczko defended the agency's independence and professionalism.](#) "I have a great staff who

are dedicated to public health and safety, and people who interact with this agency, they know that and they see that,” he said in an interview.

Critics of the NRC say the problem at Davis Besse, 20 miles southeast of Toledo, is a prime example of the agency’s deference to industry. The inspector general concluded that a conflict between the NRC’s twin goals of inspecting the plant to protect public safety and a desire to “reduce unnecessary regulatory burden” on the owner led to the delay in finding the gaping hole.

In 2003, then NRC’s Chairman Richard Meserve [disputed the inspector general’s report](#) [4], which found that **the agency’s decision on Davis Besse “was driven in large part by a desire to lessen the financial impact”** on the plant’s owner. Meserve said the NRC had adequate technical grounds for the delay.

The agency insists that it vigilantly watches operations at 104 commercial reactors and frequently issues violations to nuclear companies that step out of line. Since 2001, the agency has averaged about 120 significant enforcement actions a year at power plants and other nuclear facilities it oversees.

While the Davis Besse case focuses on singular allegations of influence, **critics say the industry routinely exercises its muscle in a more pervasive way: through contributions to NRC [regulatory guides](#)** [5] that advise nuclear companies about how to best follow the agency’s rules.

Large parts of the guides, issued by NRC, incorporate or endorse material written by the industry’s trade group, the [Nuclear Energy Institute](#) [6]. The guides – containing detailed technical procedures and reference materials – are a key part of NRC’s oversight. They provide the nuts and bolts advice that nuclear operators follow to stay in compliance but often refer to even more detailed industry guides.

The NRC’s [guide on fatigue](#) [7], for example, details how many hours employees in key jobs can work, how to respond when a worker is too tired, and how many days off employees in certain jobs need. It officially incorporates, with a few exceptions, another 60-page guide [compiled by the industry group](#).

In an e-mail, Thomas Kauffman, a spokesman for NEI, passed along responses to ProPublica’s questions from the trade group’s director of engineering, John Butler. “NRC endorsement, with or without exceptions, of industry guidance is a common practice,” Butler said.

Some [examples from a list the trade group provided](#) to ProPublica:

- How to apply for an operating license extension. **Many aging plants are seeking to extend their original 40-year licenses.** The 10-page NRC document endorses a [245-page NEI guide](#) [8] that tells applicants how to identify critical equipment and inspect it to be sure it meets relicensing standards.
- [How to protect plants from fires](#) [9]. The NRC’s regulatory guide cites an NEI document that “provides the majority of the guidance applicable” for analyzing fire risk at plants, with some specific exceptions.
- [How to upgrade plant control rooms](#) [10]. The NRC regulatory guide says that “when possible, this guide has incorporated (NEI’s) ‘Control Room Habitability Guide,’ ” again with some limits.

The NEI said its role in contributing to NRC’s guides does not mean the nuclear industry has too much influence. Kauffman said the NRC has final say on what NEI adds and frequently makes changes.

“They review them completely,” Kauffman said. “It is one thing to draft something and put it out there; it is quite another for the NRC to decide to accept it.”

NRC spokesman Eliot Brenner said in an e-mail that the NEI is not the sole source of information in agency regulatory guides and that NRC accepts comment from a broad array of sources.

“If any stakeholder – company, industry organization, individual or public group – backs up a request with appropriate information, the NRC will consider it,” Brenner said. “The NRC regularly denies industry requests that lack proper support, and **we’ve taken properly supported rulemaking requests from non-industry sources on many occasions.**”

“The NRC is the final arbiter of what becomes a regulation,” he said, “with safety the total focus of our effort.”

But others said the reliance on the industry creates a potential conflict of interest.

Jim Riccio, who follows nuclear issues for Greenpeace, said that allowing the NEI to play such a large role means the **industry can shape much of what nuclear companies are required to do.**

Riccio said NRC’s precursor agency, **the Atomic Energy Commission, was disbanded after Congress concluded it had become too concerned with promoting nuclear power instead of regulating safety.**

[In a 1974 overhaul](#) [11], development of nuclear energy was transferred elsewhere and protection of the public was given to **the NRC, a five-member body whose members are appointed by the president.**

Riccio asserted that **over the years, NRC has become more accommodating to the industry.**

“The problem with inviting the industry in is that they tend to dominate the process,” he said. **“The NRC has a problem distinguishing between the public they serve and the industry they regulate. “**

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1. <http://www.nrc.gov/info-finder/reactor/davi.html>
2. <http://www.nrc.gov/reading-rm/doc-collections/insp-gen/2003/02-03s.pdf>
3. http://www.huffingtonpost.com/2011/03/17/japan-nuclear-power-scandals_n_836970.html
4. <http://www.nrc.gov/reading-rm/doc-collections/congress-docs/correspondence/2003/davis-besse.pdf>
5. <http://www.nrc.gov/reading-rm/doc-collections/reg-guides/>
6. <http://www.nei.org/>
7. <http://pbadupws.nrc.gov/docs/ML0834/ML083450028.pdf>
8. <http://www.propublica.org/documents/item/industry-guideline-for-implementing-the-requirements-of-10-cfr-part-54>
9. <http://www.nrc.gov/reading-rm/doc-collections/reg-guides/power-reactors/rg/01-205/01-205.pdf>
10. <http://www.nrc.gov/reading-rm/doc-collections/reg-guides/power-reactors/rg/01-196/ml031490611.pdf>
11. <http://www.nrc.gov/about-nrc/history.html>

Comments

Kevin Sinclair

[April 13, 8:55 p.m.](#)

This is familiar terrain. During the BP oil spill, we learned that the Minerals Management Service let BP do whatever it wanted in return for prostitutes and drugs (MMS’s troubled past”. Washington Post. May 29, 2010. Retrieved 30 May 2010). The disgraced agency even had to change its name. **This isn’t mismanagement, its how the game is played** by our criminal government.

Barry Schmittou

[April 13, 10:10 p.m.](#)

U.S. leaders also allow insurance companies to write laws and then violate them.

To see quotes from U.S. Judges' that prove doctors' paid by MetLife ignored Multiple Sclerosis, brain lesions, cardiac conditions of many patients and much more, please go to :

<http://www.deadlyinsurancecompanycrimes.blogspot.com>

** Please remember the patients may die due to lack of money for medical treatment and other necessities while they wait years for the Judges' rulings.

** The Judges' who write the case quotes do not have the authority to stop these crimes. Federal Court Judges' have written :

“the enforcement of such provisions “is the exclusive prerogative of the Attorney General.” West v. Butler 621 F.2d, 244 (6th Cir. 1980)

Since 2007 I've tried to get the Bush and Obama administrations to prosecute these organized crimes, but they have taken no noticeable action.

Lewis Chapp

[Yesterday, 6:29 a.m.](#)

Even if we have a major accident here, say an entire city or two rendered useless, we will learn nothing. **People have gone BACK to Love Canal to purchase cheap housing, for an example of out ongoing blindness.**

Yes Virginia, we are THAT dumb.

Jim Podero

[Yesterday, 7:55 a.m.](#)

I believe the NRC would use guidance developed by Greenpeace too. But they never provide useful suggestions. The advice they do provide is summarized as follows. “Burn Candles, not Atoms.” Of course the NEI would claim the NRC was beholden to scriptures of the

Church of Luddites, and their advice would raise the risk of fires. I don't think that represents what the general population wants.

E Wurtz

[Yesterday, 9:25 a.m.](#)

I don't believe that using incorporating industry technical guides or best practices into regulatory documents is necessarily a bad thing. **Often the best technical expertise resides in the industry.** However, the industry technical guides should be carefully reviewed by competent regulatory staff to insure that they meet all regulatory requirements. The Davis Besse type situations arise not at the engineering level, but at NRC management level who are trying to balance public safety vs. industry complaints about over regulation. A lot of money is involved over shutting down a nuclear power plant and you can be sure the local politicians have been weighing in on the issue on behalf of the industry. Unfortunately, the public may not know about these issues until after the fact when the media uncovers it.

Paul Schlein

[Yesterday, 9:40 a.m.](#)

As a piping designer, I have been o 4 nuclear power stations. Despite my warnings of sabotage of critical piping, design deficiencies in piping support and leakage of nuclear waste, my congressman and senators have stonewalled all concerns. If anyone says bein "held accountable" one more time, I think I'll pray to Jesus for the day of judgement.

John Mangels

[Yesterday, 11:14 a.m.](#)

As reporters at the Cleveland newspaper, The Plain Dealer, my colleague John Funk and I reported extensively on the Davis-Besse affair for more than two years. The problematic relationship between the NRC and FirstEnergy Corp. that Mr. Sullivan writes about, as well as numerous other regulatory, policy-making and operational shortcomings exposed by the Davis-Besse crisis, continue to be relevant today. To view The Plain Dealer's stories, go to <http://www.cleveland.com/powerplants/plaindealer/?archive>

Malcolm Bud Russell

[Yesterday, 11:54 a.m.](#)

I have been making suggestions to NRC related to **the Fukushima nightmare** about; recognizing clues that there has been a lot of fuel melting, **don't pour water on superheated fuel assemblies, and let the China Syndrome bury the corium underneath the reactor plant as the better option.** I have received two insulting acknowledgements from NRC that they are fully staffed with some of the most expert people in the world.

WillHarper

[Yesterday, Noon](#)

Exactly how many times do we have to see a regulatory agency fail to do its job before we understand that they are not actually there to DO the job. They exist to give six figure jobs to political and social cronies who do nothing but come to Capitol Hill once a year, and to give the impression that industry is being "watched". If anything, when the chips fall, they provide cover for industry by either having "lost" critical paperwork, or acting as the scapegoat, all teary-eyed and who could have known?