



April 5, 1985

RULEMAKING ISSUE
(Notation Vote)

SECY-85-119

For: The Commissioners

From: William J. Dircks
Executive Director for Operations

Subject: ISSUANCE OF PROPOSED RULE ON THE IMPORTANT-TO-SAFETY ISSUE

Purpose: To obtain Commission approval of a notice of proposed rulemaking.

Category: This paper covers a significant policy issue.

Issue: This paper implements the Commission's decision to initiate rulemaking In the Matter of Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1) CLI-84-9, 19 NRC 1323 (June 5, 1984).

Background: On December 20, 1984, the staff provided an information paper, SECY-84-476, to the Commission concerning the steps the staff is taking to implement the Commission's directives in the area of equipment "important to safety." At that time, the staff informed the Commission that, after further discussion with interested industry groups, the staff was planning to go forward with a Notice of Proposed Rulemaking to the Commission for its decision in early 1985.

On January 31, 1985, a meeting was held between representatives of the Atomic Industrial Forum (AIF), the Utility Safety Classification Group (USCG) and the NRC staff concerning the important-to-safety issue. The staff and the industry representatives agreed that the interpretation of the term "important-to-safety" in General Design Criterion-1 to 10 CFR 50, Appendix A, and elsewhere in Part 50, only needed to be clarified to reflect the statement of past practice adopted by the Commission in the Shoreham decision.

Contact: G. Ted Ankrum, IE
492-4774

S. M. Goldberg, IE
492-4968

Discussion: In the Shoreham decision, the Commission directed the staff to prepare a rulemaking package to resolve this issue. Accordingly, the staff has provided a proposed rule for the Commission's consideration that would be published in the Federal Register (see Enclosure 1).

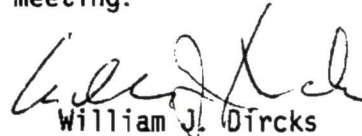
The terms "important to safety" and "safety-related" are also used in Parts 21, 60, 71, 72, and 73 of the Commission's regulations. A review is currently underway to determine what changes or clarifications, if any, might be necessary as a result of the clarifications being issued for Part 50. The currently written Notice of Proposed Rulemaking is confined to Part 50 and clarifies the relationship of these terms in Part 50 and Part 100. There is no compelling reason to delay issuance of this rulemaking pending results of that review.

Recommendation: That the Commission:

1. Approve issuance of the enclosed notice of proposed rulemaking.
2. Certify that this rule, if promulgated, will not add new requirements or modify the scope of existing requirements.
3. Certify that this rule, if promulgated, will not have a significant economic effect on a substantial number of small entities pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)).
4. Note:
 - a. The rulemaking would be published in the Federal Register for a 60-day public comment period;
 - b. The environmental impact statement in this rulemaking constitutes its environmental assessment, because the proposed rule is nonsubstantive and insignificant from the standpoint of environmental impact;
 - c. The proposed rule contains no information collection requirements that are subject to review by OMB;
 - d. A public announcement (Enclosure 2) will be issued when the proposed rule is filed with the Office of the Federal Register;
 - e. The appropriate Congressional Committees will be informed (Enclosure 3); and
 - f. Copies of the Federal Register notice of proposed rulemaking will be distributed to all power reactor permittees and power reactor licensees. The notice will be sent to other interested parties upon request.

- g. A copy of the draft proposed rule has been provided to the Advisory Committee for Reactor Safeguards Subcommittee on Quality and Quality Assurance. The Subcommittee has indicated its intention to meet with the staff following receipt and analysis of public comments received in response to the proposed rule.
- h. The Chief Counsel for Advocacy of the Small Business Administration will be informed of the certification regarding the economic impact on small entities and the reasons for it as required by the Regulatory Flexibility Act.

Scheduling: If scheduled on the Commission agenda, I recommend this paper be considered at an open meeting.



William J. Dircks
Executive Director for Operations

Enclosures:

1. Federal Register Notice of Rulemaking
2. Draft Public Announcement
3. Draft Congressional Letters

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Monday, April 22, 1985.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Monday, April 15, 1985, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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NUCLEAR REGULATORY COMMISSION

10 CFR PART 50

Use of the Terms "Safety-Related" and "Important to Safety"

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission proposes to clarify the use of the terms "important to safety" and "safety-related" in its regulations applicable to the domestic licensing of production and utilization facilities by adding two new definitions to the regulations and by discussing how these definitions have been and will continue to be applied in NRC licensing reviews. This action is proposed because significant issues concerning the meaning of these terms as they are used in its regulations have arisen in Commission licensing proceedings. The proposed rule would define these terms generally and clarify specifically the nature and extent of certain affected quality assurance requirements. In addition, it should be noted that the proposed changes are intended to provide guidance for all aspects of a nuclear facility; i.e., design, procurement, construction and operation.

DATE: The comment period expires 60 days after the publication date. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received before this date.

ADDRESS: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Deliver comments to: Room 1121, 1717 H Street, NW., Washington, DC between 8:15 a.m. and 5:00 p.m. weekdays.

Examine comments received at: the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Stephen M. Goldberg, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, telephone (301) 492-4968 or William M. Shields, Office of Executive Legal Director, U.S. Nuclear Regulatory Commission, telephone (301) 492-8693.

SUPPLEMENTARY INFORMATION:

On June 5, 1984, the Commission indicated that a rulemaking proceeding would be initiated regarding the important-to-safety issue which had been certified to the Commission (on April 23, 1984) by the Atomic Safety and Licensing Board In the Matter of Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), CLI-84-9, 19 NRC 1323 (June 5, 1984). In addition, the Commission stated:

"The Commission understands current precedent to hold that the term 'important to safety' applies to a larger class of equipment than the term 'safety-related.' However, this does not mean that there is a pre-defined class of equipment at every plant whose functions have been determined by rule to be important to safety although the equipment is not safety-related. Rather, whether any piece of equipment has a function important to safety is to be determined on the basis of a particularized

showing of clearly identified safety concerns for the specific equipment, and the requirements of General Design Criterion 1 (GDC-1) must be tailored to the identified safety concerns."

Prior to this Commission decision, the NRC staff had issued a generic letter (GL 84-01) ^{1/} on January 5, 1984, to all power reactor permittees and licensees setting forth the staff's position on safety classification. This letter stated traditional Commission practice concerning graded quality assurance for the two classes of equipment and also noted that NRC regulatory jurisdiction involving a safety matter is not controlled by the use of terms such as "safety-related" and "important to safety." Under Commission regulations, nuclear power plant permittees or licensees are responsible for developing and implementing quality assurance programs for plant design and construction or for plant operation which meet the more general requirements of General Design Criterion 1 for plant equipment "important to safety," and the more prescriptive requirements of Appendix B to 10 CFR Part 50 for safety-related plant equipment.

While previous staff licensing reviews were not specifically directed towards determining whether, in fact, permittees or licensees have developed quality assurance programs which adequately address all structures, systems, and components "important to safety," this was not due to a lack of regulatory requirements for this class of equipment. Rather, it was because the Commission generally accepts normal industry practice for equipment not covered by Appendix B

^{1/} Available from the NRC Public Document Room, First Floor Lobby, 1717 H Street, NW., Washington, DC 20555.

within this class. Nevertheless, in specific situations where quality assurance or other types of requirements beyond normal industry practice are needed for equipment "important to safety," the Commission has and will continue to impose additional requirements commensurate with the importance to safety of the equipment involved.

General Design Criterion 1 of 10 CFR Part 50, Appendix A, establishes, inter alia, a general requirement for quality assurance measures for equipment which is important to safety. Safety-related equipment is a subset of equipment which is important to safety and has been explicitly defined in 10 CFR Part 100, Appendix A, and 10 CFR 50.49. Specific quality assurance requirements have been prescribed in 10 CFR Part 50, Appendix B for equipment which is safety-related. A specific listing of quality assurance requirements such as those appearing in 10 CFR Part 50, Appendix B, does not exist for equipment which is important to safety but not safety-related.

Using the definitions found in 10 CFR Part 100, Appendix A, and 10 CFR 50.49, a listing of safety-related equipment to which the requirements of 10 CFR Part 50, Appendix B, apply is developed in Chapter 17.2 of the Final Safety Analysis Report (FSAR) of the application. If the staff review indicates additional equipment should be added, agreement is sought with the applicant or the disagreement is resolved through a formal process. Once the list is finally established, as described by the NRC staff in its Safety Evaluation Report (SER), it comprises the totality of structures, systems, and components that are known to be safety-related at the time of licensing. In addition, permittees or licensees may, for their own reasons, commit during the licensing process to place certain items not meeting the definitions for safety-related equipment on

this listing of equipment to which the provisions of 10 CFR 50, Appendix B, apply. The requirement for describing the Appendix B quality assurance program and its applicability is found in 10 CFR 50.34(a)(7) and in 10 CFR 50.34(b)(6)(ii).

There is no specific listing required for equipment which is important to safety but not safety-related. However, equipment that is important to safety in a particular facility is identified throughout the application documents for that facility. The quality measures for this equipment may be specifically identified or left to normal industry practice.

Specific equipment can be identified for specialized treatment in excess of normal industry requirements. This specialized treatment can flow from applicant statements in the application documents, from agreements between an applicant and the NRC staff during the licensing process, from generic requirements applied to a class of licensees or permittees in NRC regulations, and from plant-specific commitments. Examples of documents containing plant-specific commitments are Final Safety Analysis Reports (FSARs), facility license conditions (e.g., orders, technical specifications), and licensee response to staff positions contained in such documents as Standard Review Plans, Branch Technical Positions, Regulatory Guides, Generic Letters, IE Bulletins, Notices of Violations, and inspection reports. The changes proposed in this document do not supplement these plant-specific commitments.

Specific quality assurance requirements beyond normal industry practice for equipment that is important to safety are limited to those requirements applicable to a particular facility as a result of licensing review and approval and

to specific, generic requirements contained in NRC's body of regulations and requirements. Therefore, equipment which is important to safety, and associated quality assurance requirements, have been and will continue to be determined for each plant based both upon generic and plant-specific considerations.

Staff licensing reviews are not specifically directed towards determining whether, in fact, permittees or licensees have developed quality assurance programs which adequately address all structures, systems, and components important to safety. Normal industry practice is generally acceptable for most equipment not covered by Appendix B to 10 CFR Part 50 within this class. Plant-specific or generic action has been and will continue to be taken by the Commission in all cases where other than normal industry practice is necessary. Appropriate backfitting procedures will be used in all instances where new commitments are proposed by the NRC staff.

FINDING OF NO SIGNIFICANT ENVIRONMENTAL IMPACT

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and, therefore, an environmental impact statement is not required. It is not the intention of the proposed rule to add new technical requirements, to modify existing technical requirements, or to broaden the existing scope of the Commission's requirements. Accordingly, this proposed rule would not change current or past NRC practices. This constitutes the environmental assessment and finding of no significant impact.

PAPERWORK REDUCTION ACT STATEMENT

This proposed rule contains no information collection requirement and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.).

REGULATORY ANALYSIS

The proposed rule makes no change in Commission procedures and practices and, therefore, no regulatory analysis is required. It clarifies existing requirements.

REGULATORY FLEXIBILITY CERTIFICATION

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

LIST OF SUBJECTS IN 10 CFR PART 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, and Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR Part 50.

PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation of Part 50 continues to read as follows:

AUTHORITY: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246 (42 U.S.C. 5841, 5842, 5846) unless otherwise noted.

Sec. 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended; (42 U.S.C. 2273), §§50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54 and 50.80(a) are issued under sec. 161b, 68 Stat. 949, as amended (42 U.S.C. 2201(b)); §§50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In §50.2, add new paragraphs (y) and (z) to read as follows:

§50.2 Definitions.

* * * * *

(y) "Important-to-safety" when referring to structures, systems, and components means those structures, systems, and components that provide reasonable assurance that the facility can be operated without undue risk to the health and safety of the public.

(z) "Safety-related" when referring to structures, systems, and components means those structures, systems, and components that are relied upon to remain functional during and following design basis events to ensure:

- (1) The integrity of the reactor coolant pressure boundary;
- (2) The capability to shut down the reactor and maintain it in a safe shutdown condition; and

(3) The capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the 10 CFR Part 100 guidelines.

Dated at Washington, DC this _____ day of _____, 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk, Secretary of the Commission.

DRAFT PUBLIC ANNOUNCEMENT

USE OF THE TERMS "SAFETY-RELATED" AND "IMPORTANT TO SAFETY" IN 10 CFR PART 50

The Nuclear Regulatory Commission is proposing to clarify its regulations on the use of the terms "important to safety" and "safety-related" in 10 CFR Part 50.

As proposed, the following new definitions would be added:

"Important-to-safety" when referring to structures, systems, and components means those structures, systems, and components that provide reasonable assurance that the facility can be operated without undue risk to the health and safety of the public.

"Safety-related" when referring to structures, systems, and components means those structures, systems, and components that are relied upon to remain functional during and following design basis events to ensure:

- (1) the integrity of the reactor coolant pressure boundary;
- (2) the capability to shut down the reactor and maintain it in a safe shutdown condition; and
- (3) the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the 10 CFR Part 100 guidelines.

The proposed amendment also would include a discussion of how these definitions should be applied in the NRC staff's licensing reviews and of assigning appropriate quality assurance requirements for safety-related and important-to-safety equipment. It would not, however, add new technical requirements, modify existing ones, or broaden the scope of the existing Commission requirements.

Written comments on the proposed amendment should be submitted by (Date). They should be addressed to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, DC 20555.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

The Honorable Alan Simpson, Chairman
Subcommittee on Nuclear Regulation
Committee on Environmental and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Nuclear Regulatory Commission has sent to the Office of the Federal Register for publication the enclosed proposed amendment to the Commission's rules in 10 CFR Part 50. The amendment, if adopted, would clarify its rules on the use of the terms "important to safety and "safety-related" in 10 CFR Part 50 by adding two new definitions in 10 CFR §50.2. The Commission has included in the Supplemental Information section to the proposed rule a discussion of how these definitions will be applied in NRC licensing reviews, and of traditional Commission practice for assigning appropriate quality assurance requirements for both safety-related and important-to-safety equipment. The proposed rule would make no change in Commission procedures and practices but would clarify existing requirements.

The Commission is issuing the proposed rule for public comment. The comment period will expire 60 days after the date of publication in the Federal Register.

Sincerely,


James M. Taylor, Director
Office of Inspection and Enforcement

Enclosure:

1. Federal Register
2. Public Notice

cc: Senator Gary Hart

Identical Letters to: Congressman Udall cc: Congressman Lujan
Congressman Markey cc: Congressman Moorehead