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NUCLEAR REGULATORY COMMISSION
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MEMORANDUM FOR: William J. Dircks
Executive Director for Operations

FROM: Victor Stello, Jr., Chairman
Committee to Review Generic Requirements

SUBJECT: MINUTES OF CRGR MEETING NUMBER 50

The Committee to Review Generic Requirements (CRGR) met on Wednesday, October 26, 1983, from 3:00 - 6:30 p.m. A list of attendees is enclosed.

E. Case (NRR) and W. Olmstead (ELD) presented for CRGR review two proposed draft letters concerning the staff's current definition and interpretation of the terms "important to safety" and "safety-related," as used in the Commission's regulations.

The first draft letter is a response to the August 26, 1983 letter to W. Dircks from T. S. Ellis, III, Esq. of Hunton & Williams acting on behalf of the Utility Safety Classification Group which represents 38 electric utility owners of nuclear power plants in operation or under construction. This letter conveys the staff's current position concerning definition of the terms "important to safety" and "safety-related" and the legal basis for that position.

The second draft letter is a generic letter proposed for all power reactor licensees (construction permit and operating license holders) which would also state the staff's position on this matter and, based on that position, would advise licensees of their responsibility under the current regulations to develop and implement quality assurance (QA) programs for both "safety-related" equipment and equipment "important to safety."

This generic letter would also:

- (1) Remind licensees that they have responsibilities under current regulations concerning equipment defined as "important to safety."
- (2) Advise licensees that they would be expected to develop and implement quality assurance programs in accordance with General Design Criterion 1 (GDC-1), for an as yet unidentified set of structures, systems and components defined as "important to safety."
- (3) Advise licensees that they would be expected to continue to develop and implement quality assurance programs pursuant to 10 CFR 50 Appendix B

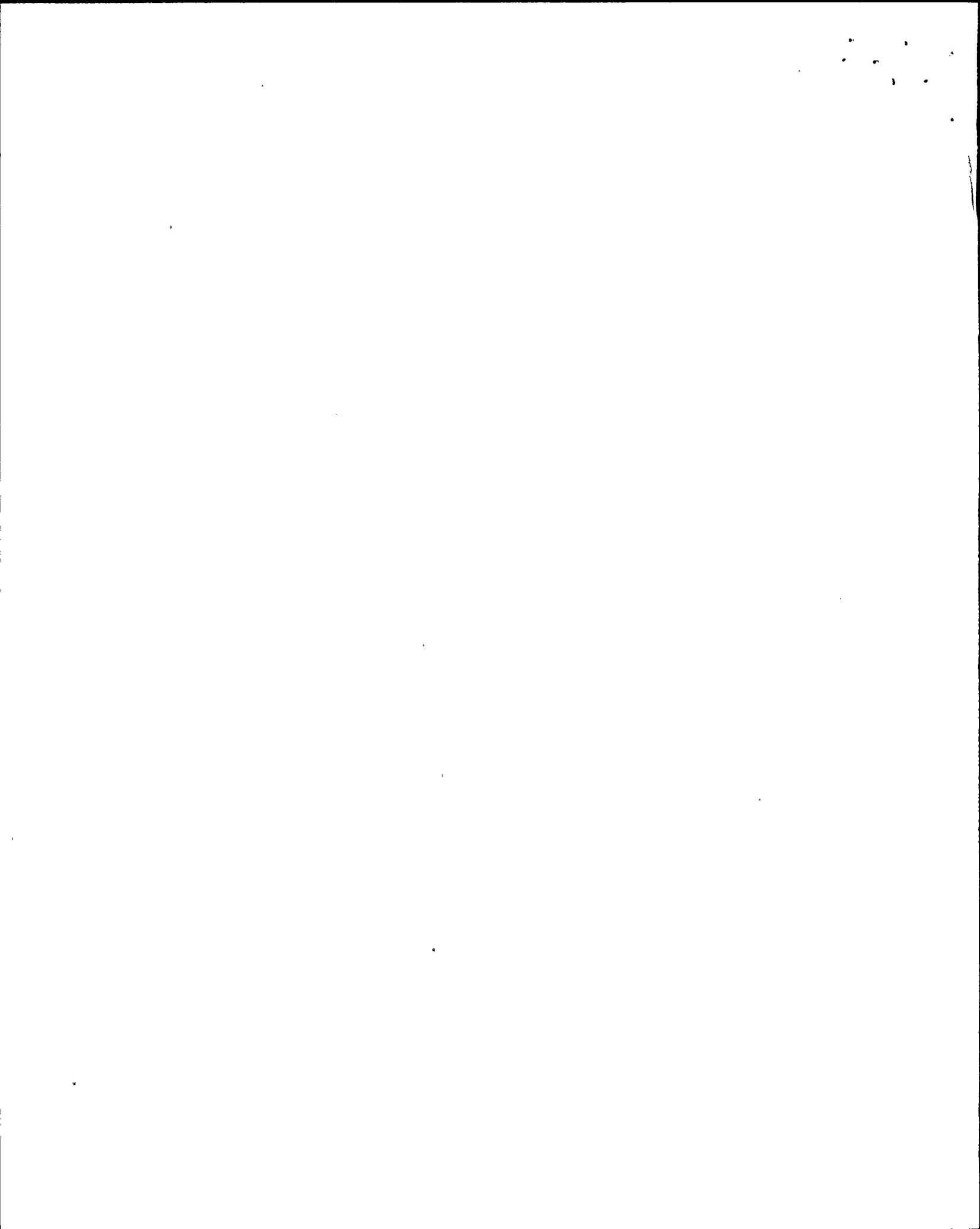
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for a subset of "important to safety" equipment defined as "safety-related."

- (4) Solicit comment from licensees as to the need and methods for developing (by industry and/or staff) additional guidance for identifying those plant features and equipment that would be included in the broader class of structures, systems and components defined as "important to safety."
- (5) Solicit comments on QA programs that should be implemented for the broader set of structures, systems and components defined as "important to safety."
- (6) Advise that future regulatory reviews will be directed toward determining whether the licensees have made a suitable commitment to develop and implement QA programs required by NRC regulations for structures, systems and components defined as either "important to safety" or "safety-related."
- (7) Advise licensees that NRC has indications that some licensees may not be properly defining and implementing the quality assurance requirements of the Commission's regulations.

E. Case and W. Olmstead developed the lengthy history concerning staff usage and practices on the matter of equipment "important to safety" and "safety-related." Possible conflicts in regulations and in staff guidance and practices were noted, as well as the varying interpretations being put forth in several plant-specific hearings (e.g., TMI-1, Shoreham and Diablo Canyon). A number of existing regulations and their technical and legal intents and possible interpretations were also discussed (e.g., 10 CFR 100, Appendix A, and 10 CFR Part 50, §50.49, §50.59, §50.34, §50.55, GDC 1, and GDC 17). In these discussions, a consensus appeared to exist as follows:

- (1) Historically, there has been somewhat confusing and conflicting staff practice regarding the use of the terms "important to safety" and "safety-related." There also appear to be conflicts created between language in 10 CFR 100, Appendix A and that of 10 CFR 50, Appendices A and B. These conflicts also extend to Regulatory Guides and the Standard Review Plan. For example, Section 17.1, p. 17.1-8 of the Standard Review Plan indicates that the "QA list" of equipment developed under Appendix B is for that equipment "important to safety." Further note is made in Section 17.1 to a future rulemaking to clarify QA requirements for those Appendix A structures, systems and components "important to safety."
- (2) There is no clear and present safety problem that exists as a result of the blurred usage of the terms "important to safety" and "safety-related" and the frequent interchangeable and synonymous use of these terms in licensing safety reviews.



- (3) The staff practice of developing "QA list" equipment covered by the somewhat more rigid and formalized QA process of 10 CFR 50, Appendix B remains sufficiently flexible to permit additions of equipment into this formalized QA structure as found necessary for safety reasons. There exists ample evidence that neither the staff nor Commission has been inhibited from taking such steps as it deems necessary to upgrade QA for selected equipment regardless of possible confusion in usage of the terms "important to safety" and "safety-related."
- (4) There already exists recognition in existing regulations that the Commission accepts a graduated degree of QA outside of the formalized structure of Appendix B. This graduated degree of QA has been commensurate with the importance to safety of various equipment. This intent is clearly exemplified by the Commission's acceptance of sound industry practices as set forth by 10 CFR 50.55 for industry codes and standards. These sound industry practices have also been modified as deemed necessary by the issuance of additional staff guidance. The requirements of 10 CFR 50.59 further impose a quality assurance type process enabling modifications to be made to facility structures, systems and components described in the final Safety Analysis Report provided that findings of "no unreviewed safety question" are made by operating reactor licensees. The quality assurance type process of 10 CFR 50.59 has been further supplemented by independent safety review committees at operating reactor facilities. As another example of imposition of quality assurance type processes, the staff has required independent verification processes for design and construction as deemed necessary to resolve questions of safety or quality at facilities under construction.
- (5) Contrary to those suggestions by counsel for the Utility Safety Classification Group in his August 26, 1983 letter, there exist no jurisdictional, legal or technical reasons that inhibit NRC from taking enforcement actions to rectify improper industry practices (QA or otherwise) should there exist a safety reason for such action. Such enforcement actions have been and will continue to be taken regardless of whether or not a distinction is made between the terms "important to safety" or "safety-related."

Based on the above staff discussions, the CRGR made the following recommendations:

- (1) It was the opinion of the CRGR that the proposed generic letter to licensees represents imposition of a previously unimposed requirement of indeterminate magnitude with an undefined burden on the resources of both industry and staff. The CRGR noted there was not a clear and present safety problem identified that could be shown to be resolved by the proposed staff actions. In this regard there existed no cost-net safety benefit rationale or analyses to support the proposed staff actions. The CRGR further noted that despite the various conflicts,



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distinctions and agency interpretations of the terms, there appeared to be no legal, jurisdictional or technical rationale being offered which would support a CRGR recommendation to issue the proposed generic letter to licensees. Accordingly, CRGR recommends against EDO approval and issuance of the proposed generic letter until such time as a definitive safety rationale can be offered for CRGR review.

CRGR recommends that further consultations be held between NRR, IE and OELD to develop the appropriate future course of action that will convey the various legal and technical interpretations of existing rules to the public and to the industry and to provide an opportunity for full comment on the implications and the cost-net safety benefits involved with such interpretations. The current review effort on general operating criteria would appear to be an appropriate vehicle for identifying problems in this area.

- (2) CRGR recommends a prompt staff response be provided to the letter from Mr. Ellis of Hunton and Williams dated August 26, 1983. CRGR suggests that this response refute those positions expressed by Mr. Ellis that would appear to legally question NRC enforcement jurisdiction on the basis that the terms "important to safety" and "safety-related" are synonymous. In this regard, the CRGR recommended that the letter to Mr. Ellis set forth the legal interpretation of Appendix B regarding "safety-related" equipment covered therein and its relationship to other parts of the existing 10 CFR 50 rules and regulations. The letter should include the QA and management responsibilities for safe operation set forth under the General Design Criteria of 10 CFR 50, Appendix A and other NRC requirements. CRGR also noted that the proposed letter to Mr. Ellis was coupled with the issuance of the proposed generic letter to licensees. This would require modification to reflect CRGR recommendations against issuance of the generic letter at this time.

In the staff response to Mr. Ellis, the letter should clearly state that NRC enforcement jurisdiction involving a safety matter is not limited by any present or past usage of the terms "safety related" and "important to safety."

During CRGR Meeting 50, the Committee also received information from Committee member D. Ross that he believed should be considered by the Committee prior to making a final recommendation on the proposed steam generator generic requirements. The proposed steam generator generic requirements had been considered by the Committee at CRGR Meetings 46, 47 and 49. The additional information is contained in a memorandum dated October 26, 1983 from D. Ross to CRGR members and consists of recent analyses performed by Los Alamos National Laboratory (LANL) of a steam generator tube rupture (SGTR) event. Following CRGR Meeting 50, the Committee reviewed the additional information and concluded that it did not alter the recommendations contained in the minutes of CRGR Meeting 49. The staff of the Deputy

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Executive Director for Regional Operations and Generic Requirements will coordinate with NRR and RES to assure that the LANL analyses are considered in ongoing staff activities related to the analyses of SGTR events.



Victor Stello, Jr., Chairman
Committee to Review Generic
Requirements

Enclosure: As stated

cc: SECY w/encl.
Commission (5)
CRGR Members
Office Directors
Regional Administrators
GCunningham
ECase

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LIST OF ATTENDEES
CRGR MEETING NO. 50
(October 26, 1983)

CRGR MEMBERS

Vic Stello
Tom Ippollito (for Jack Heltemes)
Ed Jordan
Joe Scinto
Denny Ross
L. Rouse (for Dick Cunningham)
R. Houston (for Roger Mattson)

OTHERS

Jack Roe
Ed Case
Steve Stern
Mat Taylor
Bill Kane
Warren Minners
Tom Cox
Jim Taylor
Jim Milhoan
Bill Haass
Tom Rehm
Jim Partlow
Bill Morrison
Bill Olmstead
N. Thomasson
Jim Conran
Tom Dorian
Bill Shields

