



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

DEC 19 1983

Handwritten notes and signatures:
A. J. K. ...
C. ...
...

T. S. Ellis, III, Esq.
Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

Dear Mr. Ellis:

The Executive Director for Operations has asked me to respond to your letter of August 26, 1983, in which you express concern, on behalf of the Utility Safety Classification Group, over the NRC use of the terms "important to safety" and "safety-related." Your concern appears to be principally derived from recent licensing cases in which the meaning of these terms in regard to NRC quality assurance requirements has been at issue, and my memorandum to NRR personnel of November 20, 1981.

I agree that the use of these terms in a variety of contexts over the past several years has not been consistent. In recognition of this problem I attempted in my 1981 memorandum to NRR personnel to set forth definitions of these terms for use in all future regulatory documents and staff testimony before the adjudicatory boards. As you are aware, the position taken in that memorandum was that "important to safety" and "safety-related" are not synonymous terms as used in Commission regulations applicable to nuclear power reactors. The former encompasses the broad scope of equipment covered by Appendix A to 10 CFR Part 50, the General Design Criteria, while the latter refers to a narrower subset of this class of equipment defined in Appendix A to 10 CFR Part 100 Section VI(a)(1) and, more recently, in 10 CFR 50.49(b)(1). Based on such a distinction between these terms, it generally has been staff practice to apply the quality assurance requirements of Appendix B to 10 CFR Part 50 only to the narrower class of "safety-related" equipment, absent a specific regulation directing otherwise.

More importantly, however, this does not mean that there are no existing NRC requirements for quality standards or quality assurance programs for the broader class of nuclear power plant equipment which does not meet the definition of "safety-related." General Design Criterion 1 requires quality standards and a quality assurance program for all structures, systems and components "important to safety." These requirements, like those of Appendix B to 10 CFR Part 50, are "graded" in that GDC-1 mandates the application of quality standards and programs "commensurate with the importance of the safety functions to be performed," and expressly allows the use of "generally recognized codes and standards" where applicable

ATTACHMENT C

Handwritten: 312300702

and sufficient. Documentation and record keeping requirements for such equipment are likewise graded. Pursuant to our regulations, 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 GDC-1 for plant equipment "important to safety," and the more prescriptive requirements of Appendix B for "safety-related" plant equipment.

This distinction between the terms "important to safety" and "safety-related" has been accepted in two recent adjudicatory decisions where the issue was squarely faced. In the Matter of Metropolitan Edison Company, et. al. (Three Mile Island Nuclear Station, Unit 1), ALAB-729, NRC (May 26, 1983): In the Matter of Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-83-57, NRC (September 21, 1983). Moreover, the Commission itself recognized and endorsed a distinction between the terms in promulgating the Seismic and Geologic Siting Criteria for Nuclear Power Plants (see Section VI(a)(1) and VI(a)(2) of Appendix A to 10 CFR Part 100) and the Environmental Qualification Rule (see Supplementary Information and 10 CFR 50.49(b)). Also, in preparing this response, members of the licensing staff and legal staff reviewed all of the material on this subject provided by your letter, and have also reviewed numerous other regulatory documents, including both staff and Commission issuances over the past several years in which the terms "safety-related" and "important to safety" are used. While it is apparent that some confusion continues to exist with regard to the distinction between the terms, the staff is convinced that the position it has previously taken remains correct.

The final point which I considered in responding to your letter is the consistency of NRC staff practice over the years with our position on this issue, and the technical basis for that practice. While previous staff licensing reviews were not specifically directed towards determining whether in fact permittees or licensees have implemented quality assurance programs which adequately address all structures, systems, and components important to safety, this was not because of any concern over lack of regulatory requirements for this class of equipment. Rather, our practice was based upon the staff view that normal industry practice is generally acceptable for most equipment not covered by Appendix B within this class. Nevertheless, in specific situations in the past where we have found that quality assurance requirements beyond normal industry practice were needed for equipment "important to safety," we have not hesitated in imposing additional requirements commensurate with the importance to safety of the equipment involved. We intend to continue that practice.

T. S. Ellis

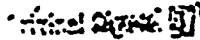
-3-

We note that in a more recent letter on this subject (comments dated October 27, 1983 on the Advanced Notice of Proposed Rulemaking on Backfitting Requirements) you have stated that ... "industry as a whole has generally applied design and quality standards to non-safety related structures, systems and components in a manner commensurate with the functions of such items in the overall safety and operation of the plant." The principal difference, then, between the NRC Staff position discussed above and that expressed in your letters appears to be your view that such actions by the industry are purely voluntary, with no regulatory underpinning; whereas, we have been and remain convinced that such actions are required by General Design Criterion 1.

I want to make it very clear that NRC regulatory jurisdiction involving a safety matter is not controlled by the use of the terms such as "safety related" or "important to safety."

A copy of your letters and this response are being sent to all permittees and licensees for information.

Sincerely,


H. R. Denton

Harold R. Denton, Director
Office of Nuclear Reactor Regulation