

Utility Safety Classification Group

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Mr. Nunzio Palladino, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Palladino:

The purpose of this letter is to briefly address the safety classification issue (i.e., "important to safety" vs. "safety related") as discussed during the Staff briefing on May 11, 1984, and to request the opportunity to discuss this issue directly with you and your fellow Commissioners. Because this issue is the subject of several ongoing proceedings, my comments below will be limited to the same generic matters discussed by the Staff on May 11.

At the outset, I wish to clarify and reaffirm the long-held position of the Utility Safety Classification Group (USCG) regarding the NRC's regulatory authority. As explicitly presented in our November, 1983 letter to Mr. William Dircks, and in subsequent communications with the Staff, it is the Group's view that the NRC has regulatory authority to act immediately whenever a concern for public health and safety is identified, independent of whatever safety classification label may then be associated with the pertinent equipment. As stated by Commissioner Gilinsky during the Staff briefing, such broad authority comes directly from the Atomic Energy Act. If a concern does not warrant immediate action, and is generic in nature, the NRC also has the authority under the Act to develop and approve appropriate regulations. In practice, the NRC has not hesitated to take immediate action or to develop applicable regulations in specific non-safety related areas (e.g., physical security, fire protection) when a health or safety concern was perceived.

The Staff seems to be departing from this traditional practice by seeking to establish a broad, undefined scope for the term "important to safety" under which it can, in the future, regulate any non-safety related item regardless of its safety significance and without rulemaking. We do not understand the reason for this. No health or safety concern has been identified. Nor is there any bar to developing specific regulations to exercise the NRC's authority in

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non-safety related areas to meet any concern which may arise. And finally, in the absence of an articulated safety concern, the Staff's approach cannot be squared with the NRC's goal in recent years to eliminate unnecessary regulations.

Let me turn now to the safety classification issue itself. Although the Staff has indicated that it has used "important to safety" and "safety related" as being different in scope, such a distinction is of relatively recent vintage. Examples where the staff has equated the terms include 10 CFR Part 21, as discussed by the Staff on May 11, and Appendix R to 10 CFR Part 50. Since these terms came into common usage in the early 1970s, USCG members and the nuclear industry have interpreted and applied the terms as synonymous. For almost a decade, the equation of the terms by the utilities was not challenged by the NRC Staff; indeed, NRC regulations and regulatory guidance are consistent with the utilities' interpretation.

Importantly, as noted above, the Staff has been unable to identify a specific safety concern caused by the industry's synonymous use of the terms. In fact, the minutes of CRGR Meeting Number 50, dated November 14, 1983, concluded, "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." Also, the Staff has stated in Generic Letter 84-01 that "normal industry practice is generally acceptable for most equipment not covered by Appendix B within this class." Consequently, the USCG and industry in general have been unable to determine the fundamental concern the staff is trying to address by urging a definition of "important to safety" that is broader than "safety related." To clarify the issue so that we might be better able to contribute to the formation of a resolution, we requested information in a March 9, 1984 letter to the Staff. While the Staff has responded to that letter providing general guidance based on the April 30 meeting and the May 11 briefing, our request for specific information remains unanswered. We believe that a complete response to the questions posed in our letter of March 9 is an important step toward the mutual understanding and resolution of this issue.

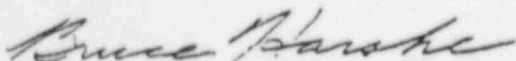
The public meeting between the NRC Staff and the industry on April 30 was useful as it started a dialogue between the Staff and the utilities for identifying the root causes of the Staff's concern. While we have not been completely successful in obtaining guidance from the Staff regarding any specific health or safety concerns, the April 30 meeting and the Commission briefing on May 11 did start to identify certain substantive areas of interest to the Staff. Apparently the Staff is primarily concerned at this time with maintenance practices for non-safety related equipment, although we have noted evidence that the Staff is not unanimous in this regard. We note that the Staff is presently developing a Maintenance Program Plan which addresses, among other things, a difference between "safety related" and "important to safety" in a generic manner. Likewise the implementation of the recommendations of the NRC's "Report to Congress on the Improvement of Quality and the Assurance of Quality In Nuclear

Plants" calls for generic resolution of the safety classification issue. Yet no specific health or safety concern has been identified to guide these undertakings. Additional uncertainty would result from the imposition of an arbitrary redefinition of "important to safety" which was developed in an ad hoc basis within the scope of these activities and in individual proceedings. For instance, the lack of any definition developed within a coherent framework might leave uncertain the scope and applicability of many regulations in which the term "important to safety" appears. The scope of inspection and enforcement activities likewise would be uncertain. Such uncertainties would easily produce inconsistent interpretations of the regulations and inconsistent practices leading to unnecessary and unproductive confrontations between the Staff and the utilities.

In light of the above, we request the Commission to direct the Staff -- Headquarters and Regions -- to pursue a broad, generic resolution of the safety classification issue and not consider the issue in a fragmented manner in individual cases or in these other contexts. We request the Commission further direct that the issue be dropped from consideration in any ongoing proceedings and not be taken up in any future proceedings until a complete generic resolution is ready to be implemented. To this end, the Utility group is now preparing a petition for rulemaking to clarify the definitional question by formally equating "important to safety" and "safety related" and by defining those terms consistent with 10 CFR Part 100, Appendix A. Additionally, we will propose a framework to demonstrate to the Staff's satisfaction that no specific health and safety concerns exist for non-safety related equipment.

We have maintained a working dialogue with the Staff over the last year, and continue to work with them following the April 30 meeting. However, the issue is now before the Commission. We believe it would aid the Commission's understanding of the implications of this issue if we have the opportunity to exchange views with the Commissioners, as did the Staff, and discuss the safety classification issue, the areas of agreement and disagreement between the USCG and the Staff, and the regulatory implications of the USCG's and the Staff's positions. Thus, we request the opportunity to discuss these subjects with you at your earliest convenience.

Sincerely,



Bruce L. Harshe
Chairman,
Utility Safety Classification Group