

50-309



UNITED STATES
NUCLEAR REGULATORY COMMISSION
 WASHINGTON, D.C. 20555-0001

April 23, 1997

Mr. Henry R. Myers
 Post Office Box 88
 Peaks Island, ME 04108

Dear Mr. Myers:

Your letter of March 18, 1997, to Chairman Jackson regarding the Maine Yankee Atomic Power Station (MYAPS) has been referred to this office for reply.

Two of the concerns you express in your letter are that the NRC staff is not insisting on licensee compliance with NRC regulations and that violation of NRC requirements requires a conclusion that operation is unsafe. Let me assure you at the outset that the NRC staff, without question, expects licensees to comply with all applicable regulations and license requirements and will take enforcement action, as necessary, to ensure such compliance.

You stated that views expressed by the Regional Administrator for NRC Region I at a March 11, 1997, press conference evidenced a "staff mindset" that conformance with regulations is not important. In essence, your view was that the comments "encourage disrespect" for regulations. Your statements reflect a lack of appreciation for all of the statements made by the Regional Administrator and, importantly, the actions that have been taken by the NRC staff in following up on Maine Yankee issues. As you know, the reason why the Region and headquarters staff were at the site on March 11 was to review issues that have emerged at Maine Yankee from a compliance and enforcement perspective. Final enforcement decisions have not been made, but it is because compliance with regulations is a serious matter that an enforcement conference was conducted. More broadly, other significant steps recently taken indicate that agency staff responsible for inspection and oversight of Maine Yankee is not minimizing the nature and significance of problems at the facility, including compliance issues. For example, the staff placed Maine Yankee on the NRC watch list. When items of non-compliance were discovered in the electrical area, the staff issued a confirmatory action letter, CAL No. 1-96-015 (CAL), dated December 18, 1996, to assure issues were fully resolved before plant startup. Subsequently, the scope of the CAL was expanded. See CAL No. 1-96-015, Supplement No. 1, dated January 30, 1997. The staff initiated its restart review process consistent with NRC Inspection Manual Chapter 0350 to assure that safety/compliance issues are thoroughly reviewed and appropriately addressed before restart.

Regarding statements made during the March 11, 1997, enforcement conference and the press conference that followed, the Regional Administrator and other members of the staff said performance problems at Maine Yankee were significant. The Regional Administrator, for example, stated that past

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activities were lax and fundamental change was required at the facility. He stated that the equipment, design and human performance problems at the facility were significant in that they negatively affected safety margins.

You stated that the Regional Administrator said at a March 11, 1997, press conference that it was the staff's view "that [MYAPS] was never unsafe." You question whether such a standard is appropriate. First, the context in which that statement was made was that defense-in-depth provided adequate margins for safety at MYAPS. Second, as stated in a letter to you from John Zwolinski, NRC, dated February 14, 1997, the standard established by the Commission for determining whether prompt remedial action is necessary, including shutdown, is whether a violation poses an undue risk to public health and safety. This is the standard the NRC is applying to Maine Yankee. Although circumstances may call for an assessment of the potential past impact of previously unidentified deficiencies such assessments, including the Regional Administrator's assessment of MYAPS to which you refer, should not be misinterpreted to mean that the NRC staff has applied or is applying a standard other than the "undue risk" standard in reaching decisions regarding plant operation.

In your March 18, 1997, letter you express a concern regarding "staff obfuscation" with respect to a cable issue at MYAPS. You indicate that the NRC staff was not clear in the March 11, 1997, press conference regarding the matter of whether cable issues identified over the past several months at MYAPS differ from a cable issue identified in the 1977-1978 timeframe by Mr. Peter Atherton. The staff's initial review of this matter has determined that Mr. Atherton had raised an issue concerning the separation of redundant structures, systems and components (SSCs) needed to achieve and maintain safe shutdown in the event of a plant fire, not the actual routing of specific cables. Subsequent to Mr. Atherton raising these issues in 1977-1978, the NRC set standards to govern them by promulgating the requirements of 10 CFR Part 50, Appendix R, and 10 CFR § 50.48. In contrast, the issue recently identified by the licensee relates to the licensee's commitment to maintain physical separation and electrical independence of redundant electrical systems as set forth in IEEE Standard 279, "Criteria for Protection Systems for Nuclear Power Generating Stations." While it is possible that SSCs subject to the requirements of Appendix R and § 50.48 may also be subject to the requirements of the IEEE standards identified above, the issue recently identified by the licensee is different from the issue raised by Mr. Atherton in 1977-1978.

At the press conference, the staff was merely explaining that the current problems were only recently identified by Maine Yankee engineers in reviewing broader electrical issues. The Regional Administrator went on to say, however, that the matter recently identified by the licensee, as well as the issues raised by Mr. Atherton about fire protection and cable separation, would be thoroughly reviewed to confirm that the facility was not operated with knowledge of specific cable routing or fire protection problems that could pose undue risk to public health and safety. In addition, the Regional Administrator stated that all cable separation issues, including those raised by Mr. Atherton, would be addressed before restart.

Mr. Henry R. Myers

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As a final matter, the concerns you express in your March 18, 1997, letter regarding the NRC staff's position with respect to MYAPS conformance with TMI Action Plan Items II.K.3.30 and II.K.3.31 are fully discussed in a letter to you from Mr. John Zwolinski, NRC, dated April 14, 1997.

I hope that this information will help resolve your concerns about the Maine Yankee plant.

Sincerely,

(Original Signed By)

Samuel J. Collins, Director
Office Of Nuclear Reactor Regulation

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