



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

May 13, 2019

The Honorable Dianne Feinstein
Ranking Member, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Feinstein:

At the May 1st hearing, you raised concerns about the Commission's approach in the final Mitigation of Beyond-Design-Basis Events (MBDBE) rule. In particular, you raised concerns about how the reevaluated hazards are being addressed given that the final rule does not contain a generic requirement applicable to all nuclear power plants to protect the FLEX equipment against the reevaluated hazards. You also requested pros and cons of the Commission majority approach. We recognize your concerns and are confident that the Commission majority approach continues to ensure that U.S. nuclear power plants are safe. We hope that this letter provides a clear explanation of the approach.

First and foremost, the Commission majority approach to addressing the reevaluated hazards does not backtrack from critical safety requirements needed to protect U.S. nuclear power plants. All operating U.S. nuclear power plants have installed FLEX equipment in response to the Commission's orders issued after the Fukushima accident. These enhancements provide plant operators with additional capabilities to cope with extreme events as well as more common design-basis events. The NRC has inspected and analyzed this equipment and has confirmed that plants are operating safely. Under the Commission majority approach, the final MBDBE rule requires these safety improvements to remain in place to ensure safety.

As noted at the hearing, the draft final MBDBE rule contained a generic requirement to protect the FLEX equipment against the reevaluated flooding and seismic hazards.¹ Some have stated that the Commission previously approved this generic requirement as necessary for safety. However, the Commission makes its findings regarding what is needed for safety at the final rule stage, and it did so here.

The majority of the Commission did not support this generic requirement because we determined that it did not have a sufficient basis. Instead, the majority determined that these decisions should be made on a case-by-case basis using scientifically sound, site-specific analyses based on current data. This approach reflects the common sense observation that, because flooding and seismic risk vary from site to site, the seismic and flooding reevaluations should take place on a site-specific basis.

¹ In addition, the draft final MBDBE rule included an option for licensees to use "event-specific approaches" to address the effects of the reevaluated flooding and seismic hazards without relying on or protecting the FLEX equipment.

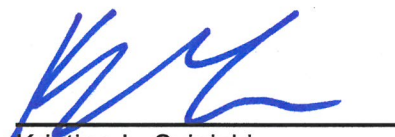
The Commission majority approach was informed by the considerable work done since the draft MBDBE rule was developed. In particular, the NRC has done many evaluations and inspections of site-specific analyses using current data developed by the licensees to understand the reevaluated hazards at a given facility.² These evaluations and inspections have confirmed that a site-specific approach is effective, risk-informed, and ensures that U.S. nuclear power plants are safe from natural hazards. The Commission majority concluded that there was no technically valid justification for augmenting this site-specific approach with a generic requirement for FLEX and the reevaluated hazards in the final rule. Therefore, the majority removed the generic requirement from the rule, and the agency will continue to use a site-specific process to evaluate whether any additional enhancements are appropriate for those plants that have a higher reevaluated hazard.

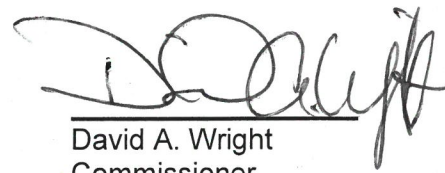
The pros of the Commission majority approach in the final rule are that it retains the FLEX equipment that is already in place at every operating plant in the United States, allows for case-by-case determinations about further enhancements to the plant or the FLEX equipment, is risk-informed and performance-based, provides licensees flexibility to address site-specific hazards and configurations, reflects lessons learned since the proposed rule was issued, and has proven to be effective at maintaining safety. Commissioner Baran and some observers have stated that a con of this approach is that FLEX equipment at some sites will not be protected against their reevaluated hazards. We do not share this view because, as noted, the decision to further enhance FLEX equipment at a given site will still be made on a case-by-case basis using current data.

We intend this proactive communication to address your specific questions on this subject to inform the development of any additional questions for the record.

Sincerely,



Annie Caputo
Commissioner

Kristine L. Svinicki
Chairman

David A. Wright
Commissioner

cc: The Honorable Lamar Alexander
Chairman, Subcommittee on Energy
and Water Development

² These analyses were developed under the 10 CFR 50.54(f) process, which requires licensees to submit information under oath and affirmation to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.