



negligence and the designation of significant and substantial were retained).

The judge's decision makes no reference to these modifications, while affirming the inspector's original section 104(d)(1) determination. Therefore, we vacate the judge's decision and remand for the judge to determine the appropriate designation for the citation and whether any penalty reassessment is warranted.

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Mary Lu Jordan, Chairman

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Marc Lincoln Marks, Commissioner

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James C. Riley, Commissioner