

# A MENDMENT: REVISION.

DSI-10

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Mr. John C. Hoyle  
Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Attn: Chief of Docketing and Services Branch  
Washington, D. C. 20555-0001

Dear Secretary and Commissioners:

Please accept this letter as my comments on the Direction Setting Issues papers. I am a member of the public and a reluctant customer of nuclear power plants. I believe that the criteria of standing and interest allows me to comment and have my comments heard.

I wish to object to the pejorative, "Stakeholder." Unless you are painting me as holding a stake to the heart of the nuclear power vampire, you are painting a picture that I find offensive.

Nuclear power has turned into a vampire, draining much needed investment into schemes promoted by Government backed welfare to large multinational corporations at the expense of the American taxpayer. One very important Direction Setting Issue that is not included should explore "Shutting Down the Nuclear Fuel Cycle."

Shutting down the expensive and counter-productive nuclear fuel cycle is a much needed addition to the important considerations which have been omitted from the issue papers. Shutting down the nuclear fuel cycle would reduce many of the concerns expressed throughout the DSIs. Shutting down the nuclear fuel cycle would rescue many of the industries facing nuclear waste and burgeoning nuclear cost problems. Shutting down the nuclear fuel cycle would reestablish the public trust in a government burdened with charges of supplying crack cocaine in L. A. to smuggling in the Mena Airport to injecting plutonium into unknowing victims.

## NRC Strategic Assessment and Rebaselining

Process Paper

Overall Objectives

"5. Provide a basis for reconciliation of agency strategic objectives to available resources so that resources constraints do not define the end strategic results."

My comment contains the assumption that this sentence is more than governmentese or gobbledegook. I believe that this sentence means something along the line of meeting the agency objectives within budget. I believe that meeting the Agency's objectives within budget would be easier to do if the Agency learned to write in plain English instead of governmentese and gobbledegook.

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## Stakeholder involvement

### How to File a Comment

The closing date for comments is November 15, 1996. Considering the length and the usual poor effort to involve the public, the closing date for comments is excruciating short. I am sure that the NRC made Herculean efforts to include the industry, but I doubt that the NRC made the same effort to include environmental and citizen action non-governmental organizations.

## Strategic Planning Framework

### Introduction Page 2

I commend the NRC for its observations concerning industry economics introducing new complexities, decline in NRC resources, public interest remains high, and technology and other social trends are changing.

I do not commend the NRC for appropriateness of response to these observations on economic changes, NRC resources, and technology and social trends. I have a movie called the Abyss on my VCR while I prepare these comments. This movie was filmed inside a nuclear reactor that was never finished. The utility determined that leaving the nuclear power plant was cheaper than completing it. I hope that the NRC sees the wisdom of stopping the nuclear fuel cycle as several utilities have seen the wisdom of stopping the completion of nuclear power plants.

Economics, social trends and technology are changing. I hope that the NRC will wake up to these changes. Stopping the nuclear fuel cycle in the face of these changes serves the greatest good.

### NRC's Mission, Vision and Goals. Page 8

Goals b. "That its (NRC's) regulations are consistent with other ... internationally recognized standards ... to the greatest extent possible."

The NRC does not seem to understand the ramifications of the General Agreement on Trade and Trade. We must meet the international standards or be subject to World Trade Organization sanctions. We have lost National sovereignty over our own regulations through GATT, Article XVI, 4. "Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligation as provided in the annexed Agreements."

By signing onto the GATT the US has placed itself in the position of meeting and not exceeding international regulation. Wherever NRC regulation differs from international regulation, the WTO may sanction the USA.

"This is a fine kettle of fish you have gotten us into, Ollie."

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NRC Strategic Assessment and Rebaselining  
Strategic Planning Framework  
NRC's Strategic Arenas  
Overview of Strategic Arenas  
Mission Critical Strategic Arena

The NRC assures safe operation, use and management of nuclear reactors, use and handling, and management of radioactive waste. Considering the long history of Thermolag, Rosemount valves and myriad other issues, this reader is not assured. This section is wordy, self-laudatory and without basis.

Mission Enabling Strategic Areas

The NRC has counter-productive methods to build public trust.

1. Reduces or eliminates fines when the violation has been of long duration
2. Allows materials such as Thermolag to remain in use despite a long history of violation and extensive use
3. "protects" whistleblowers by openly declaring how the whistleblower warned the NRC of the violation allowing the violator to track the whistleblower by telephone or other records.
4. Allows and aids licensees to return to operation despite a long and dangerous history of violations as in the cases of the restart of Three Mile Island No. 1, TVA reactors, and many other instances too numerous to include here.

Supporting ... Objectives in the International Area.

I repeat my comments above about the NRC's misunderstanding of GATT

The NRC does not seem to understand the ramifications of the General Agreement on Tariffs and Trade. We must meet the international standards or be subject to World Trade Organization sanctions. We have lost National sovereignty over our own regulations through GATT, Article XVI, 4. "Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligation as provided in the annexed Agreements."

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## Appendix II

### The NRC's Safety Philosophy

#### Defense in Depth

Defense in depth requires that defenses are maintained. Any military tactician will explain that a barrier which is not defended and maintained will be breached. The NRC seems to believe that defenses need not meet any standards as in the case of Thermolag or may actually fail as in the case Leak before Break technology in Japan and elsewhere.

I do not believe that this kind of history embodies a proper safety culture in or out of the nuclear industry.

#### DSI 2: Oversight of the Department of Energy

I am disgusted that Congress has legislatively exempted an agency of the Federal Government in peacetime from the same regulation that commercial users must endure. This is similar to the Congress exempting itself from the labor and sexual harassment laws which it did in the past. Exempting agencies of the Federal government from regulation by other agencies of the Federal government destroys any hope of public trust, and rightfully so.

#### DSI 4: NRC's Relationship with Agreement States

The reason for Agreement State status has been access to financial aid from the Federal government. Since the Federal government is reducing financial aid to the States, the Feds should provide an easy means for States to exit from Agreement States obligations.

#### DSI 5: Low Level Waste

The NRC has had a long history of problems with siting new low level waste sites. The NRC should reduce or eliminate its attempts to site new low level waste sites. The NRC should emphasize its regulatory role in low level waste siting and stop acting as a promotional agency which it is not.

The DOE was created to replace ERDA as the promotional part of the Federal government's part in nuclear power. The NRC was chartered as the regulatory part of the Federal government's part in nuclear power. The NRC charges fees for its regulatory functions. If the NRC stuck to its regulatory functions exclusively, the NRC would have a lot less financial problems such as "decline in appropriated resources."

## DSI 6: High Level Waste and Spent Fuel

The nuclear industry was lead down the primrose path by the promise providing very high burn-up in the nuclear fuel. The burn-up has been very disappointing. The disappointing burn up of nuclear fuel has caused many of the fuel pools at nuclear reactors to be filled up very quickly. These fuel pools were designed in many cases to provide sufficient space for spent fuel for the entire lifetime of the respective nuclear power plant. The poor burn up experienced by many reactors has caused many fuel pools to be filled prematurely.

The most important action which the NRC could provide to the nuclear industry and the public about high level waste and spent fuel involves explaining properly how the industry has gotten into this bind concerning spent fuel storage. The NRC must show how the burn up has been disappointing due to cracking and swelling of the cladding, accidents such as Three Mile Island, premature shut down due to economic considerations.

The NRC describes many lobbying actions in which the NRC could indulge. Option 2. "The NRC would be taking an active role, within the limitations of its legislative mandate, to enhance the progress of the national mandate."

Again the NRC forgets that its charter limits it to the regulation and not the promotion of nuclear power. If the NRC wants to get into the legislative debate, the NRC should admit to the many benefits of stopping the nuclear fuel cycle.

### B. Options

Option 1: Approach Congress and the Administration to Refocus the National Program

"The Commission could propose that Congress determine the acceptability...of the Yucca Mountain site by law."

This stinks. The NRC is proposing that Congress make a political decision instead of a scientific decision.

## DSI 9 Decommissioning-Non-reactor facilities

NASA is proceeding with the launch of a spacecraft with a nuclear battery containing 75 pounds of plutonium. A repeat of the Challenger disaster will contaminate the East coast of the United States with 75 pounds of plutonium. This DSI about the decommissioning of non-reactor facilities is deficient in that exigencies such as the NASA launches with plutonium payloads are ignored as sources of non-reactor facility contamination.



## DSI 10 Reactor Licensing for Future Applicants

This DSI is a waste of time and money and resources. There are no utilities wishing to get into the same bind of excessive resource use with little return that many utilities are facing now. Many new technologies and rate structures allow utilities to get into the electric wheeling competition. Electric wheeling Competition allows utilities to get electricity from the cheapest supplier which can be alternative sources. New technologies allow utilities to buy power from thousands of miles away.

One result of the new technologies will be that up to one fifth of the present investment in plant will be unneeded in the near future. With one fifth of plant unneeded, new reactor licensing is a waste of time and money.

Even foreign countries have learned the lesson that nuclear power is expensive and unnecessary in the face of new, alternative technologies. Third World countries have seen nuclear power and large centralized power lead them into the trap of excessive debt.

The best option for future applicants is not to apply. The best option for the NRC is to close all FTEs (staff positions) involved with future applicants for nuclear power plants.

## DSI 12: Risk-informed, Performance based Regulation

The problem with the DSI 12 paper is that the NRC allows only those risks and those performances that it deems worthy into consideration. The accident at Three Mile Island #2 is allowed into consideration, but the accident at Chernobyl and Kyshtyn are disallowed. There are many aspects of United States reactors that could produce disasters rivaling Chernobyl.

Self-serving exclusions are a tradition of the NRC, and leave risk-informed, performance based regulation a paper tiger without effect and unworthy of public trust.

I suggest an option here that environmental intervenors perform the risk and performance research paid by the licensees through an independent NGO, such as the Rabbinical Council of Philadelphia or the Gray Nuns.

## DSI 13. The Role of Industry

Between the Price Anderson Act protections and the limited liability provided by incorporation, industry carries little liability. I suggest that industry's role be limited to industry's liability.

#### DSI 14: Public Communication Initiatives

Place the public communication initiatives into the hands of Nuclear Information Resource Center or Public Interest Resource Group and you will see some real communication and initiatives. Keep the Options in the hands of the NRC, and the nuclear industry will respond exclusively with only an occasional commenter from the public.

Check your data base, and see how often Marvin Lewis is the only commenter from the public outside the industry. Give me this job, and I will show you how to get people to comment.

#### DSI 20: International Activities

The NRC puts out a very short DSI on the issue which is the kingpin of National policy. The NRC is no longer the dog wagging the tail of international activities. The GATT gave the international community power over the US policy on nuclear materials. The US and the NRC must meet and not exceed international regulation or face sanctioning by the WTO.

This needs a lot more discussion after the NRC figures out what the 16,000 pages of GATT mean to the US.

#### DSI 21: Fees

Caveat emptor.

The nuclear industry bought into the nuclear genie. Let them pay. Maximize fees and fines for the industry now.

#### DSI 22: Research

The fiasco with Thermolag and several other subjects demonstrates that the NRC has less expertise than it proclaims. In light of the poor performance to date, perhaps an NGO such as NIRS or ECNP could be pressed into service to perform the 'research' which NRC feels is so necessary.

#### DSI 23: Enhancing Regulatory Excellence.

Sunshine and sunset laws have demonstrated that they are excellent methods to enhance agency performance.

#### DSI 24: Decommissioning Power Reactors

The NRC drops the most important and immediate DSI into a very short and non-specific paper. The NRC should go into how it is allowing the unloading of fuel and transportation of a 500 ton pressure over the objections of intervenors and without an approved decommissioning plan at Yankee Rowe.

These are the kind of specifics of how the NRC tramples public participation. These are the specifics that the NRC ignores in its DSIs. These specifics are the reason that the public does not trust the NRC.

#### Conclusion

The idea of the Federal government looking at itself for the purpose of rebaselining to do a better, cheaper job has been perverted by these DSIs. Instead of attempting to try to do a better job, these papers read as a defense of business as usual.

Instead of admitting that the NRC has used all sorts of administrative maneuvers to decommission nuclear power plants, the NRC tries to allow all sorts of licensee maneuvers to allow decommissioning to proceed. These maneuvers suggest the maneuvers that allowed the Three Mile Island #2 reactor to start while intervenors were filing petitions to stop the TMI#2 reactor from loading fuel. Because of these maneuvers, a 500 ton pressure vessel may come through Philadelphia on election day.

The NRC should look at the means of ending the nuclear power instead of looking at how to promote nuclear power.

Very truly yours,

11/3/96

*original signed by  
Merwin Lewis*