

DSI-4

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To: NRC Secretary Return requested <secy@nrc.gov>
Date: 11/13/96 4:12pm
Subject: Strategic Assessment Comments



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I am the SLO for the State of Oregon. These comments represent those of the Oregon Office of Energy. The attached file contains the comments, and is in Wordperfect 5.1 format. If the file does not make it through, please let me know, and I will send hard copy.

Separate comments will be submitted from Oregon's agreement agency, The Oregon Health Division. Thanks.

Acknowledged by *e-mail* *11/13/96*
CSB

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Oregon Office of Energy Comments on the
NRC Strategic Assessment and Rebaselining Initiative

DSI 2

We support the conclusions of the Advisory Committee on External Regulation of Department of Energy Nuclear Safety (Advisory Committee) that:

DOE should be externally regulated because an external regulator would be free of the responsibilities of DOE's mission and would be able to focus on ensuring that safety receives consistent and adequate attention.

External regulation would end the inherent conflict of interest between mission and self-regulation of safety at DOE and would improve public confidence and involvement in the safety of DOE operations.

As a result, we support Option 1, which provides for the NRC to receive broad responsibility for regulating DOE facilities. We are, however, concerned that this change could result in significant delays in the cleanup work that is now underway in the DOE nuclear complex. Therefore, we agree with the Commission's preference that these new regulatory responsibilities be added to the NRC on an incremental basis. This, we believe, would allow for the transition to NRC oversight to be accomplished in an orderly, less disruptive fashion.

DOE may need standards that differ from NRC's present standards, but only where security or safety demands it. Ultimately, DOE must be held to the same standards as everyone else. To do otherwise would defeat many of the purposes of external regulation.

The costs for NRC's regulation should come either directly to NRC from DOE or as part of a Congressional appropriation. NRC applicants and licensees should not have to bear the costs of additional DOE regulation. DOE should pay for its programs.

We strongly disagree with the Advisory Committee recommendation that OSHA assume a major regulatory presence at DOE facilities. NRC has a fine record of ensuring worker safety in nuclear operations, and has the expertise to handle this responsibility at DOE facilities. Bringing in OSHA would be costly and redundant.

DSI 4

Option 1 would be ill-advised (EPA). Option 2 or 3 would be our preference. Some states have shown they must have the NRC oversight in order to keep their agreement programs adequately funded. Some agreement will have to be reached to have the states more fully cover the cost of oversight as well as training. All states must have adequate fee authority.

There is a way to address the issue of a "critical mass" of licensees to ensure the on-going expertise stays with the NRC. This would be to provide for dual license review (not issuance) of some agreement state licenses. This will keep regional reviewers hands in the issues. It will also provide for a relationship to develop between the region and state staff other than at program review time.

We like the notion of state inspection of NRC licensees. This is more cost-effective than travel from a regional office, at least in the west. It makes the agreement programs more financially stable because it could be done under contract to the NRC.

LLW issues should continue to largely be addressed by the states, with a research and assistance roll performed by NRC. LLW is a national issue, and such assistance should be cost-shared by the federal and state licensees through fees.

DSI 5

The repercussions of moving away from the LLRWPAA are too large to consider at this point. Any effort of the NRC should look to supporting the Act.

EPA's efforts to safely dispose of hazardous wastes make significant use of engineered artificial disposal barriers, even though they are assumed to last only 40 years. This would be a poor approach to radioactive waste which is largely inorganic in nature. The current LLW approach of land disposal with engineered covers or concrete sub-surface vault disposal makes better sense for these wastes. For this reason, EPA should not take over the LLW disposal efforts. In addition, because the EPA would likely delegate authority to the states, it would rely on existing delegate agencies. These are not always the same agencies as currently manage the agreement programs. Such delegations would cause troubles in some states.

We think the current program level of effort is about right. The states can and should be effective advocates for disposal capacity.

DSI 6

The NRC is not in a position to affect the national dialogue on HLW storage. The solution will be legislative, and it will likely be soon. Maintain current program efforts, and prepare to evaluate an ISFSI for waste from all over the country.

Move soon to amend NRC rules to allow greater than Class C wastes in an ISFSI, both national and at-reactor.

DSI 7

Option 2 best balances the needs of the public with the needs of the industry. A

decrease in regulatory oversight will result in the kind of problems currently found with the loss and lack of accountability over generally licensed devices. There is nothing about the medical community that argues for special treatment from public health/waste disposal requirements. However, control over medical procedures does not need to be done by the NRC. There is no compelling argument to expand NRC authority into X-ray, accelerators or NORM materials. There is a good argument to expand NRC authority over accelerator produced materials, because the nature of the isotopes is so similar to byproduct material it is an artificial distinction. NORM should remain with the states.

NRC must regain accountability and control over generally licensed devices. Too many are being lost or finding their way into waste streams.

It makes sense to have SS&D reviews located at the NRC. A change would require states to develop the needed expertise. This would just be recreated in another centrally located organization.

DSI 9

The State of Washington has allowed an inactive Uranium Mill Tailings site to accept similar materials for disposal as a way of building a decommissioning fund for the site. The NW Interstate LLW Compact has supported the Envirocare of Utah site as a disposal option primarily for decommissioning wastes. In Oregon, we have used various administrative means to clean up such sites. Clean up can be accomplished, and Option 7 looking for lower-cost aggressive disposal options makes the most sense to me. The litigation/superfund approach transfers too many clean up resources to legal resources.

DSI 12

Before choosing any of the options suggested for this initiative, the NRC must break a stalemate that has surrounded the use of Probabilistic Risk Assessment (PRA) for years. The NRC has endorsed probabilistic risk assessment and has required licensees to invest a lot of money in developing the Individual Plant Examinations (IPE's). And, the NRC has tried, with limited success, to promote the use of PRA results for planning of maintenance and modifications. Licensees believe that if they are required to use PRA to schedule their work (through programs such as the Integrated Living Schedule), then they should be able to also use probabilistic arguments in support of Licensee-initiated Tech Spec change requests. So far, the NRC has not been receptive to the use of probabilistic arguments in support of licensee requests. If PRA is to be useful, the NRC and the industry must reach an agreement on what PRA will be used for.

- The agreement must be mutual, with buy-in from the industry. If the NRC mandates programs such as Integrated Living Schedules on the industry without

adequate buy-in, then licensees will respond by complying with the letter of the requirements, but not with the spirit.

- Risk based assessments should be applied to both licensee initiatives and new regulatory programs. By applying risk based assessment, the "worst case" approach which forms the basis for most current Technical Specifications could be modified so that commercial plants could gain greater operating flexibility with no loss in overall safety. Historically, commercial plants have operated under very conservative specifications, based on worst case analyses. In some cases, the worst case scenario that forms the Tech Spec basis was not credible, but was chosen because it was conservative and because there was a lack of information that could be used to make more realistic assumptions. Over the years, commercial plants have sought relief from what they perceive to be overly conservative operating limits by taking credit for the high degree of "margin" in their safety analyses. This practice damages the NRC's credibility in the public's eyes, because the public perceives this as a "relaxation" in requirements.
- A risk based approach could lead to more realistic safety analyses. That would lead to operating requirements which are realistic from the outset and which need not be "relaxed" as the plant ages or as conditions change. This would be a more efficient use of NRC and licensee resources. It would also give the public greater confidence.

In short, there is a lot of time and money invested in risk based technology, and to not use it now would be a mistake.

DSI 14

First, change how the agency writes. Reading through the alternatives in this process was difficult. I took an opportunity to review a paragraph in DSI 14 using a software tool called Right Writer. The paragraph was "Option 1a: Focus on Maximizing Effectiveness and Economy". The readability index is about 20. This means it takes someone with 20 years of formal education to understand it. The fog index is 23.5, another measure of the grade level needed to understand it. The index of strength was zero, meaning it was written entirely in passive voice. Four out of the six sentences were of 30 words or more. The first sentence was 54 words. This kind of writing is not helpful to communication. It is, in fact, a bar to communication. There is a clear but unspoken message to the reader here. That message is that they are not smart enough to appreciate what you want them to know. If you want to communicate with the public, you must write for the public. Until this changes, all the plans in the world will not make for effective communication. Some of our citizens have 20 to 24 years of formal education. Far more have 10 or less. They are no less deserving of our attention. This critique of your paragraph has a readability index of 5.9. It has a fog index of 8.6. The index of strength is .86 out of 1.0, meaning it uses a strong, active voice. The software had no changes to suggest except for the title of your paragraph

quoted in the fourth sentence.

Option 2 is the best of the options presented. It most closely resembles the way we communicate with the public at the Oregon Office of Energy. Some specific steps that could be taken in these direction include:

- For public notice, use more accessible publications than the Federal Register. Most members of the general public don't read the Federal Register. Press releases and even purchased ads in major newspapers are more effective. Most commercial plants are located in or near small towns which have their own small scale newspaper. Ads in those papers are not expensive, and local citizens read them to find out what is going on in their community.
- Tailor the level of outreach to the community. The NRC should recognize that the level of public outreach appropriate for Region II may not be enough in New England or the Pacific Northwest.
- Some of the communication methods described under option 3 on Table 1 "Summary of Options" would also work well for option 2 - tutorial publications, explanations of basic regulatory processes on the NRC Home Page, etc.

DSI 24

NRC rules should allow for easier transport of reactor vessels and other large reactor components. They should not be subject to review as if they were transport casks used to ship discrete sources. Special precautions, speed limitations, and shipment preparations can assure safe transport. By forcing the removal of internal structures from a reactor vessel prior to shipment, radiation dose is increased. And, the resulting contamination from the removal process will greatly complicate decommissioning.

We would argue for option 2. The NRC would more aggressively pursue the current regulatory changes. For the reactors in active decommissioning, changes to the rules are needed soon.

There are a number of open issues that are in the rulemaking process right now. Many of the new rules proposed are steps in the right direction. Some proposed rules would settle some age-old arguments about the appropriate standard for final site cleanliness. The NRC has proposed new approaches, which focus less on the decommissioning process and more on the end result. These new approaches are supported by recent industry experience, and should be implemented without undue delay.

Rev 1