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DSI-12

(40)

## NON-DESTRUCTIVE TESTING MANAGEMENT ASSOCIATION

December 2, 1996

Mr. John C. Hoyle  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Att.: Chief of Docketing and Services Branch

Subject: PR-157 Strategic Assessment Initiative, Written Testimony



### I. Introduction

The Non Destructive Testing Management Association (NDTMA) is pleased to provide comments to the Nuclear Regulatory Commission for review as part of their Strategic Assessment Initiative. The NDTMA was formed to provide a forum for the open exchange of managerial, technical, and regulatory information critical to the successful management of Non Destructive Testing personnel and activities. Its membership is approximately 150 companies operating in both Agreement and NRC states. Our comments will touch on three DSI papers; #13 - The Role of Industry, #23 - Enhancing Regulatory Excellence, and #12 - Risk-Informed, Performance-Based Regulation.

### II. The Role of Industry (DSI #13)

The role of industry, and specifically the role of the radiography industry in NRC rulemaking activities has been a cause of great concern amongst the members of NDTMA. The existing operation, as identified in DSI # 13 has evolved absent an overall explicit policy statement. This has led to inconsistent reliance on industry viewpoints, and often times a complete disregard for the viewpoints of the regulated community. NDTMA recognizes that the agency must remain independent in its decision making, but feel that the flaw lies in the data collection process and not with the decision making.

While NDTMA has been involved with a variety of rulemaking efforts ranging from participation in agreement state workshops to commenting on proposed rules affecting 10 CFR 34, we do not feel that substantive input has been sought out prior to developing a proposed rule. The most recent changes to 10 CFR 34 have resulted in a solicitation of public comments through the Federal Register and public workshops. All of these actions have taken place after the NRC has reached a preliminary viewpoint however. Seeking comments on a proposed rulemaking, does not offer substantive industry input, and is often viewed as a formality in the NRC's rulemaking process.

Acknowledged by NRC 12/31/96



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To rectify this problem, we would suggest two additions to the rulemaking process:

1) For substantive rulemakings such as an overhaul of 10 CFR 34, it is necessary to gather input through an advanced notice of proposed rulemaking or an enhanced participatory rulemaking process. This allows a meaningful discussion between industry groups and the agency staff to take place, before any decisions are made as to the direction the agency should pursue an issue. As one of the primary stakeholders in the Non Destructive Testing Industry, NDTMA can offer expertise and advice up front to develop a rulemaking that achieves its goal, maximizes efficiency, and is reasonable to implement.

2) DSI # 13 discusses the fact that "the role of industry groups in the regulation of nuclear materials is relatively fragmented in comparison to that of the power reactor industry. No broad industry-wide advocacy or technical assistance group works to represent the interests of all materials licensees." NDTMA believes that the problem is even more focused than the interests of all materials licensees. The agency relies on several advisory committees to seek advice on technical topics. These advisory committees include issues such as reactor safety, nuclear waste, and the use of medical isotopes. NDTMA would like to see the NRC, under the Federal Advisory Committee regulations, create an industry advisory committee to assist it in developing appropriate regulations for 10 CFR 34. This advisory committee would be made up of experts in the field of industrial radiography safety and could provide the agency with a level of expertise that is not currently available amongst the staff.

To further augment this process, consistent with option four in DSI # 13, the NDTMA is willing to explore with NRC staff how the utilization of standards and guides, developed within industry (i.e., ANSI N432-1980 standard), can be refined and translated into the rulemaking process.

### III. Increase Accreditation and Certification of Licensee Activities (DSI #13)

The NRC mentions several times in DSI # 13 that one example of an industry group working with the agency is the American Society for Non-Destructive Testing, in cooperation with NRC, developing a program for certifying radiographers that maybe incorporated into 10 CFR Part 34.

We encourage the NRC to move in the direction of accreditation and certification programs developed by industry but would like to take this opportunity to highlight some of our concerns about implementation of such programs. With NRC preparing to require licensee participation with the radiographer safety certification rule, NDTMA is concerned about the level of support and enforcement that the agency is preparing to implement. We are convinced that enforcement will not be truly effective unless it places a high level of accountability squarely on the shoulders

majority of major safety violations in the industry are committed by only a few radiographers. The