

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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USNRC  
*8/5/82*

BEFORE THE NUCLEAR REGULATORY COMMISSION

In the Matter of:  
  
PROPOSED LEGISLATION  
(Nuclear Standardization Act  
of 1982)

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PROPOSED RULE

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*PR-Misc. Notice*  
*(47 FR 24044)*

COMMENT ON PROPOSED RULE "NUCLEAR STANDARDIZATION ACT OF 1982"

John F. Doherty, J. D. of Houston Texas, Intervenor in the Allens Creek Nuclear Generating Station Construction Permit proceedings offers the below comments on the proposed legislation announced in the Federal Register, (47 Fed. Reg. 24049). These Comments strongly urge the Commission to withdraw the proposed legislation.

Standing back to examine the Nuclear Standardization Act within the context of a people such as ours and their development, it is instructive to note that the Nuclear Standardization Act (NSA) appears on the heels of an attempt last year (in rulemaking) to shorten or curtail the public participation in licensing of atomic power plants. That attempt failed all but totally. Only a provision permitting use of "express mail" survived to become a rule. The response to those proposed rules showed the public was adamantly opposed to reducing regulation of nuclear power. That the Commission should be trying essentially the same thing again through NSA is very disturbing. Shouldn't the Commission regard the public with greater weight than is evident from the proposed legislation?

This oddity, if I may call it that, is present, in particular in the proposed Section 185(c) which would not require compliance with Section 189(a) of the Atomic Energy Act. The same might be said with regard to Section 185(c) (proposed) which would combine Construction Permit and Operating License

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proceedings, assuming there is a construction license proceeding of course. This idea appears to stem from utility irritation at being halted at the operating license stage when great numbers of problems with nuclear plants were discovered in the follow-up to the Three Mile Island multi-million dollar disaster.

Thus, the Commission, through the proposed legislation of NSA favors actions which have been highly unpopular with the public. Rarely do politicians look for that.

It should be pointed out that these proposed provisions are made to remedy "confusion" in Section 189(a) of the Atomic Energy Act, without identification of what the "confusion" is. Clearly the hearings on the Allens Creek Nuclear Generating Station (Docket No. 50-466), conducted by an obviously experienced Board, under Section 189(a) of the Atomic Energy Act, were not confused. They were orderly, and obviously based on written rule and case law, on which much thought had been expended. There were no complaints of confusion from either the Applicant or Staff in the proceeding. In frustration the frustrated often cry "confusion", but it is unseemly for the Commission to be identified so closely with the promotion of nuclear power as it appears here. Hence, the Commission appears strongly biased in favor of those it regulates and against the public who view the prospect of more Three Mile Island type events.

At the moment, the hearing process is coherent and can be thorough. A utility with mature judgement can plan for it, and even profit from some of the findings. As an example of this, consider the effect of Intervenor's and public participation in the Diablo Canyon licensing which led to the discovery of the Hosgri fault and the prophetic efforts of the public in emergency planning in the Seabrook

Mr. Asselstine of the Commission, at his confirmation hearing prior to appointment, spoke strongly in favor of NSA, as well.

hearings. The Three Mile Island accident showed too well that on emergency planning, the utilities, and NRC had underestimated the consequences of the then relaxed attitude on public exit in the event one of the large reactors began to appear unresponsive to normal control. Under the proposed rule, could the Commission guarantee these things would have obtained the same attention? Obviously Section 185(c) as proposed in NSA will make the answer to that more confused.

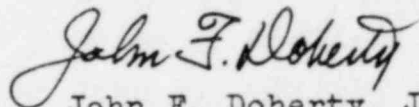
The proposed rules appear to be the Commission yielding to attack from the nuclear industry. The word attack is more accurate than pressure, because when a container yields to pressure, the pressure decreases. Not so here. When the regulatory agency yields, the regulated, encouraged, reform and attempt to dispose of another aspect of regulation that impedes their goal of no regulation and a steady increase in profit. Appeasement will never regulate. The proposed legislation is appeasement and will not satisfy the industry. Instead of submitting the proposed legislation, the Commission should withdraw it and explain the nuclear industry as shown by Three Mile Island, continues to need careful scrutiny, for the public's protection.

Generally speaking, the use of standardized plants, and the subsequent privileges to be accorded utilities for them appears to say that licensees will not even have to change approved designs if those designs would violate the Atomic Energy Act or Commission regulations. (Section 104 of NSA, which is to be new Section 196 of the Atomic Energy Act). Particularly, this statement refers to the requirement that a change improve the overall risk of plant operation to the public health and safety by a substantial margin; when a license is to be renewed. This is too high a standard, as well as too vague. Such issues should be settled on an individual basis, with the burden on the industry to show that the change is not needed, rather than on the public to show it is.

Section 104 of NSA which would be incorporated in Section 196 of the Atomic Energy Act is ambiguous. It speaks of "appropriate Commission review" of licensees' voluntary design changes without being clear this includes or excludes opportunities for public intervention. If it does not then the rule sets up an opportunity for the Staff and licensee to work up an agreement. The history of Staff and utility agreements shows much opportunity for public safety to be eroded by utility attack. Section 104 should include specific words that the public has the right of intervention participation.

Thank you for the opportunity to comment.

Sincerely,



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