



Nuclear Safety Oversight Committee

For DCS

No Externals

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557-FW



July 27, 1981

Enclosed is a copy of the Nuclear Safety Oversight Committee's latest report to the President. Should you have any questions about it, please call me at (202) 653-8468.

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## Nuclear Safety Oversight Committee

July 23, 1981

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

Your Nuclear Safety Oversight Committee has recently reviewed the state of nuclear reactor licensing. We took as our premise that a license to operate a nuclear reactor reflects, first and foremost, a determination that the reactor has been designed and constructed in such a way that it can and will be operated with adequate protection of the public health and safety. We find that there are two fundamental problems in the licensing process that must be addressed in the current debate over operating license reform.

First, the licensing process includes many matters that do not bear on reactor safety. We believe that the licensing process should be recast to eliminate all issues that are not safety related. These other issues should be resolved in briefer parallel NRC proceedings, assigned to other federal or state agencies, or eliminated from consideration.

Second, we believe the Operating License hearing has proliferated into a process dominated by issues not relevant to safety and by redundant issues that should be resolved at the earlier Construction Permit hearing. The present two step licensing process should be changed to move as many issues as possible forward to the Construction Permit stage where safety issues can be thoroughly reviewed before basic design and construction commitments are made. The Operating License proceeding should be restricted to auditing performance of Construction Permit licensing conditions.

Since the Calvert Cliffs decision, the Nuclear Regulatory Commission has been charged with administration of the National Environmental Policy Act. Some NEPA issues such as the need for power and alternative technologies are not issues of reactor safety. The same is true of anti-trust issues. The Nuclear Regulatory Commission does not

have the expertise to handle these economic issues well. These issues have consumed an extraordinary amount of Commission, staff and hearing board resources, thereby distracting the Commission from the central issue of reactor safety. We believe the Nuclear Regulatory Commission should be freer to concentrate on the safe design, construction and operation of reactors. Accordingly, it is our view that non-safety related environmental issues such as waste heat treatment, that bear directly on specific plant construction or operation, should be considered by the NRC at the Construction Permit stage, outside the formal licensing process, in the less structured NEPA hearing process employed by most Federal agencies. Broader economic and social issues that have come to be interpreted as requiring consideration under NEPA, such as need for power and alternative energy, should be removed from the purview of the NRC. We believe that a strong case can be made that market conditions and state utility regulation make federal consideration of many of these issues unnecessary. However, to the extent that it is judged necessary to examine these issues at the federal level, the responsibility should be assigned to an agency other than the NRC.

There is general agreement that Operating License hearings have become protracted proceedings in which non-safety related NEPA issues are extensively considered and in which many issues are litigated that should have been raised and decided at the Construction Permit hearing. Whenever possible, safety issues should be definitively resolved at the Construction Permit stage when there is still sufficient flexibility to make appropriate design and engineering changes. We believe the time is at hand for the Congress to make substantial changes in the direction of early one step licensing. With such changes, the Operating License hearing process should be restructured as an audit of compliance with terms and conditions set forth in the Construction Permit documents, together with a review of any substantial new specific safety issues that have arisen since the Construction Permit was issued.

We note that the Operating License hearing is an optional hearing, held only at the request of a public intervenor. It therefore cannot be intended to serve as the principal method of achieving closure on safety issues immediately prior to plant operation. The principal responsibility for

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safety closure for specific plants rests with the NRC staff, which we believe is doing a generally satisfactory job on this aspect of reactor safety. Nonetheless, staff work should be subjected to outside peer review to assure high technical quality; this is the mission of the Advisory Commission on Reactor Safeguards. We urge Congress to take action to relieve ACRS of the legal requirement that it review every license application. High quality NRC staff work can be best assured by in-depth review of selected issues rather than by a necessarily more cursory, legally required review of all applications. We join the Kemeny Commission, the Rogovin Study and the ACRS itself in urging this change.

With such a statutory change, the ACRS should begin development of a methodology for forming subcommittees of balanced composition to audit license applications in a manner optimized to review new issues as they arise and to provide overall quality control of the licensing process.

In sum, we believe that the time is at hand for a thoroughgoing legislative and administrative restructuring of the licensing process to achieve the following objectives:

- 1) Remove issues unrelated to safety, including such economic issues as the need for power and alternative technologies, from the licensing process. Only the environmental impact arising from the construction or operation of the specific plant under licensing review should be within NRC jurisdiction.
- 2) Move the resolution of as many issues as possible forward to the Construction Permit license hearing.
- 3) Recast the role of the Operating License hearing to determine whether the plant has been built as promised and to address substantial new safety issues that have arisen since the Construction Permit was issued.
- 4) Enable the ACRS to change its review function from mandatory review of all applications to

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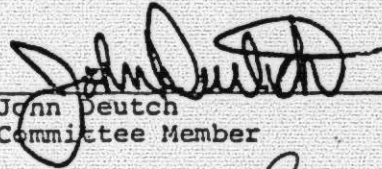
a more flexible and in-depth audit of problem areas and NRC staff performance in license reviews.

We recognize that most of these changes will require Congress to amend the Atomic Energy Act. However, we believe that the time is now at hand for a thorough assessment and redesign of a licensing process that has not been substantially changed for more than 20 years.

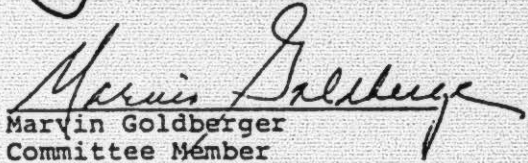
Sincerely,



Bruce Babbitt  
Chairman



John Deutch  
Committee Member



Marvin Goldberger  
Committee Member



Harold Lewis  
Committee Member

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