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PROPOSED RULE **1, 2, 50 et. al.**  
(66FR 19610)

DOCKETED  
USNRC

# Nuclear Information and Resource Service

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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

April 27, 2001

Secretary and Commissioners  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

ATT: Rulemakings and Adjudications

## Request for Extension of the Comment Period for the Proposed Rulemaking on Changes to Due Process and Public Hearings

To The Secretary and Commissioners:

On behalf of Nuclear Information and Resource Service (NIRS), I am writing in request of an extension to the comment period for the proposed rule on changes to the public hearings process as published in 66 Federal Register 19609-19671 (April 16, 2001).

On April 25, 2001, I placed a call to the Nuclear Regulatory Commission Public Document Room (PDR) to request a document pertaining to transcripts of a public stakeholder meeting dated October 26-27, 1999, outlined in the Federal Register notice as available for public review. I was informed by PDR staff that the document had not been placed into the PDR. NIRS is still trying to ascertain what portion of the rulemaking file in this matter may still be incomplete and unavailable for public review.

NIRS was simultaneously contacted by a member of the interested public with regard to the discovery of this same problem. It was then communicated to our office that the Office of General Counsel had verified that transcript was not in the public document room. Shortly thereafter, our office was notified by staff that a copy of the document was hand delivered by OGC to the PDR. Of additional concern, the document was not available to the interested public via ADAMS nor the NRC website. In fact, this material regarding due process for public stakeholders should have been docketed as a course of NRC business in the PDR in 1999.

Template = SECY-067

SECY-02

Given the sweeping changes being proposed to the due process afforded to the public hearing process for new licenses, license renewals, amendments and exemptions, the unavailability of a complete public record potentially handicaps the interested public's ability to effectively respond to the proposed rulemaking. We note the omission of the referenced transcript of the public stakeholders meetings regarding the NRC hearing process with a certain irony.

The Commission has stated that its approach to deformatize the hearing process has been cautious, taking place in slow, incremental steps. In light of this stated approach, it would be prudent of the Commission to remedy this situation affecting the public's due process through as cautious and appropriate means. Because the PDR is no longer the repository for paper documents, the Commission should at least make all related materials to this proposed rulemaking available for public review via a designated site on the NRC website. A significant portion of the interested public is not able to access related materials via ADAMS as a result of the site's reliance upon proprietary software that has historically frustrated and denied reasonable accessibility to vital NRC records.

In addition, this proposed rule is quite long and is very sweeping and important in its implications. We are sure the NRC would want the widest possible public comment on this proposal. The initial comment period is simply insufficient for many organizations, governments and individuals to allow for a detailed examination of this proposal and its implications. We also note that a proposed rule that affects public participation—but does not offer adequate public participation in its making—is unlikely to result in either a good rule, nor in the public support necessary to implement the rule.

We therefore request that the NRC publish the notice of the recent availability of the omitted documentation in a new Federal Register notice and extend the public comment period by a period of no less than an additional 120 days from the original comment deadline.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Gunter", with a long horizontal flourish extending to the right.

Paul Gunter, Director  
Reactor Watchdog Project

CC:

Office of the Inspector General  
with attachment of April 26, 2001 letter from Attorney Jonathan  
Block to Commission and Secretary